United Nations A/HRC/31/G/2

General Assembly

Distr.: General
11 February 2016
English
Original: Spanish

Human Rights Council
Thirty-first session
Agenda item 2
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Note verbale dated 24 December 2015 from the Permanent Mission of Guatemala addressed to the United Nations Office and other international organizations based in Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

The Permanent Mission of Guatemala to the United Nations Office and other international organizations based in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to transmit herewith the observations and comments of the Government of the Republic of Guatemala on the unedited version of the annual report of the High Commissioner on the activities of his office in Guatemala (A/HRC/31/3/Add.1), in response to the note verbale dated 18 December 2015 from the Office of the High Commissioner.

This is in accordance with article V, paragraph 5, of the Agreement between the United Nations High Commissioner for Human Rights and the Government of the Republic of Guatemala on the establishment of an office in Guatemala, which states: "The Government may give its opinion of the report of the High Commissioner referred to in the preceding paragraph, making any observations it deems appropriate on its content, which the High Commissioner will transmit to the Commission on Human Rights" (now the Human Rights Council).

The Permanent Mission of Guatemala to the United Nations Office at Geneva and other international organizations in Geneva would be grateful if the Office of the High Commissioner would take due account of the attached communication* and distribute it as a document of the Human Rights Council at its thirty-first session.

* Reproduced in the annex as received, in the language of submission only.

Anexo

[*Spanish only*]

Observaciones del Estado de Guatemala al Informe anual del Alto Comisionado de las Naciones Unidas para los Derechos Humanos sobre las actividades de su oficina en Guatemala durante el 2015

I. Antecedentes

El Estado a través de la Misión Permanente de Guatemala ante la Organización de las Naciones Unidas y otros Organismos Internacionales, recibió la comunicación de la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos, por medio de la cual traslado la versión avanzada no editada del Informe sobre las actividades de su oficina en Guatemala durante el 2015.

Dicha comunicación invita al Estado a realizar comentarios u observaciones sobre el contenido del informe, para lo cual otorga de plazo hasta el 25 de diciembre de 2015.

Derivado de lo anterior, el Estado de Guatemala por medio de la Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos - COPREDEH, presenta las siguientes observaciones.

II. Observaciones del Estado

Párrafo Nº 12

"El sistema de justicia debería ser fortalecido de manera integral y contar con un marco jurídico armonizado con los estándares internacionales de derechos humanos."

El Estado de Guatemala realiza constantes y continuos esfuerzos para fortalecer el sistema de justicia, por lo que, considera oportuno incorporar la siguiente redacción: "El sistema de justicia, debe continuar fortaleciendo de manera integral el marco jurídico, armonizándose con los estándares internacionales de derechos humanos."

Guatemala en el ejercicio de su soberanía, ha adoptado una serie de instrumentos internacionales de protección de derechos humanos, y de conformidad con el artículo constitucional 46, adopta como principio general, que en materia de derechos humanos, los tratados y convenciones, ratificadas por el Estado, tienen preminencia sobre el derecho interno.

Por aparte, se recuerda que el Estado de Guatemala al formar parte del Sistema Interamericano, se adhiere a la Comisión Interamericana de Derechos Humanos en mayo de 1978, y reconoce la competencia de la Corte Interamericana de Derechos Humanos el 9 de marzo de 1987. Además, a partir del 26 de enero de 2012, Guatemala ratificó la aplicación del Estatuto de Roma, reconociendo así la competencia de la Corte Penal Internacional.

Entre los esfuerzos del Estado para armonizar la legislación nacional con los estándares internacionales, se pueden citar ejemplos, como el cumplimiento de la Medida Cautelar MC-370-12, 334 Pacientes del Hospital de Salud Mental, dictada por la Comisión Interamericana de Derechos Humanos, en la cual se han llevado a cabo 7 Seminarios de Psiquiatría Forense, orientado a jueces y magistrados del ramo penal,

laboral, familia y otros operadores de justicia como Ministerio de Gobernación, Sistema Penitenciario, Instituto de la Defensa Pública Penal, Ministerio Público, Organismo Judicial, Escuela de Estudios Judiciales y personal del Hospital de Salud Mental. Así mismo, se elaboró el proyecto de Ley de Salud Mental.

De igual forma, el Estado de Guatemala agradece el continuo apoyo a través de la ACNUDH-Guatemala, en el programa de formación sobre estándares internacionales de derechos humanos en la administración de justicia para jueces con competencia en casos de mayor riesgo, magistrados y letrados de la Corte de Constitucionalidad, así como, las fiscalías de Amparos y de Derechos Humanos del Ministerio Público, tal como lo menciona en su informe anual en el párrafo 82.

Párrafo Nº 13

El Estado de Guatemala informa que a través de COPREDEH, sostuvo reuniones con autoridades de dicha institución y ha solicitado a la Comisión de Finanzas del Congreso asignar los recursos adecuados para el próximo periodo fiscal, ambas acciones con el fin de impulsar el fortalecimiento de la capacidad institucional.

Párrafo Nº 19

Se recomienda que en la redacción de la línea 3 se incluya el siguiente texto resaltado: ..."el Tribunal de Mayor Riesgo "B" resolvió en agosto de conformidad con dictamen pericial del INACIF, que el acusado Ríos Montt sufría de demencia vascular degenerativa...".

Párrafo Nº 22

El Estado de Guatemala considera importante incluir en la redacción del párrafo 22, los 3 pagos efectuados hasta el 22 de diciembre y el programado para el 29 de diciembre de 2015, en concepto de resarcimiento económico, en cumpliendo lo acordado en la Política Pública de Reparación a las Comunidades Afectadas por la Construcción de la Hidroeléctrica Chixoy.

Párrafo Nº 43

Con relación a lo indicado en párrafo 43, "ACNUDH-Guatemala siguió observando con preocupación el uso indebido del derecho penal en contra de defensoras y defensores que reivindican sus derechos en el contexto de proyectos hidroeléctricos y mineros."

El Estado de Guatemala desea reiterar que en cumplimiento de su mandato constitucional y acorde con sus obligaciones internacionales y regionales de protección a los derechos humanos de sus habitantes, ante los actos que afectan el orden, la gobernabilidad y la seguridad del Estado, así como la vida, la libertad, la justicia, la seguridad, la paz y el desarrollo integral de los habitantes, el sistema jurídico nacional organizado democráticamente y constitucionalmente, para respetar el derecho de asociación, libertad de expresión, resistencia pacífica y objeción de conciencia, por lo tanto, es indispensable subrayar que no existe desde el Estado de Guatemala, acciones de criminalización a la actuación de los defensores de derechos humanos, del movimiento o protesta social, puesto que la aplicación del código penal contempla los delitos y penas, no se dirigen al activismo y a la protesta social, con el fin de debilitarla o desorganizarla. La ley sustantiva penal de Guatemala tipifica hechos o actos cometidos por el sujeto activo, por lo tanto no se dirige a los roles que el individuo desarrolla en la sociedad.

Es importante recordar que a la luz de la Declaración sobre el derecho y la responsabilidad de los individuos, grupos y órganos de la sociedad de promover y

proteger los derechos humanos y las libertades fundamentales reconocidos universalmente, y acordes con estas disposiciones, el Estado de Guatemala, ha desarrollado medidas legislativas, administrativas y jurídicas para el reconocimiento de los defensores y defensoras de derechos humanos, y facilitar su labor, que contribuye a la gobernanza, gobernabilidad y al fortalecimiento de la democracia y el estado de derecho.

En virtud de lo anterior, el Estado comprende y respeta la calidad de quién es considerado defensor de derechos humanos: "(...) la calidad de defensora o defensor de derechos humanos se determina de acuerdo con las acciones realizadas por la persona y no otras calidades, como por ejemplo si reciben un pago o no por sus labores. Para ser considerada dentro de la categoría, la persona debe proteger o promover cualquier derecho o derechos a favor de personas o grupo de personas, lo que incluye la promoción y protección de cualquier derecho civil o político, económico, social o cultural, en forma pacífica." (Resaltado propio). A contrario sensu, no se considera defensor y defensora de derechos humanos, aquel individuo o grupo de individuos, que cometan o instiguen actos violentos o que propaguen la violencia.[1]

Párrafo Nº 50

Con relación a lo manifestado en el párrafo 50, que indica: "A pesar de las reuniones sostenidas en 2015 por el Estado y familiares de la víctima, no se avanzó en el cumplimiento sustantivo de dicha sentencia".

El Estado de Guatemala informa que como resultado de las reuniones sostenidas con los familiares de las víctimas durante el 2015, se avanzó en el cumplimiento sustantivo de dicha sentencia en los siguientes puntos resolutivos: el rembolso al fondo legal de víctimas de la Corte IDH; la publicación del resumen oficial de la Sentencia en las páginas web de instituciones del Estado, en el Diario Oficial y uno de amplia circulación, la capacitación sobre la erradicación de estereotipos en la aplicación de justicia a funcionarios que se desempeñan en la investigación de casos de muertes de mujeres, y el pago total de la indemnización en concepto de reparaciones a todos los beneficiarios de la sentencia.

Párrafo Nº 53

En la primera parte del párrafo menciona: "Los pueblos indígenas siguen siendo víctimas de discriminación racial, desigualdad y exclusión."

El Estado considera importante recordar que el 29 y 30 abril del 2015, Guatemala participó en la presentación y evaluación del informe 14 y 15 de la Convención Internacional sobre la Eliminación de Todas las Formas de Discriminación Racial, realizada en Ginebra, Suiza. Este evento permitió establecer un diálogo con los expertos del Comité para la Eliminación de la Discriminación Racial, resaltando los avances y desafíos que tiene el país en la lucha contra la discriminación racial.

Aunque, en el párrafo 92, menciona la cooperación de la Oficina del Alto Comisionado, para la participación de Guatemala en el examen, se considera que no se le da el realce que este evento tuvo, así como el papel de nuestro país participando con una amplia delegación del Estado.

En la última línea solo menciona que el "Decenio Internacional de las Personas Afrodescendientes es una oportunidad para desarrollar un programa nacional que revierta esta situación".

[1] United Nations Office of the High Commissioner for Human Rights, Protecting the Right to Defend Human Rights an Fundamental Freedoms, Fact Sheet No. 29, UN Publications, Geneve, 2004.

Sin embargo, el Estado de Guatemala llevó a cabo el 4 de noviembre de 2015, en el Salón Banderas del Palacio Nacional de la Cultura el acto protocolario de lanzamiento del Decenio Internacional de los Afrodescendientes proclamado por la Organización de las Naciones Unidas por el período 2015-2024, el cual fue presidido por el Vicepresidente de la República de Guatemala, en compañía del Comisionado Coordinador Presidencial de la CODISRA, un Viceministro de Relaciones Exteriores, el Representante de la OACNUDH y un representante de la Sociedad Civil. Aunque, en el párrafo 80, dentro del apartado de actividades de la OACNUDH menciona el lanzamiento, no se le está dando el realce que este evento tuvo, el cual fue coordinado por la CODISRA.

Por otro lado, se cuenta con espacio denominado "Grupo de Trabajo sobre Afrodescendientes", el cual es coordinado por el Ministerio de Relaciones Exteriores y lo integran: CODISRA, COPREDEH, DEMI, FODIGUA, MINEDUC, MICUDE y SEGEPLAN. Se está analizando que se integre sociedad civil y la OACNUDH. El fin primordial del grupo de trabajo es la creación de un plan nacional, basado en el Decenio Internacional de los Afrodescendientes.

Párrafo Nº 68

Con relación a lo indicado en el párrafo 68, el Estado considera oportuno citar que además de la aprobación del Protocolo Único de la Inspección General del Trabajo, se instaló la plataforma electrónica para las capacitaciones a distancia de los Inspectores de Trabajo, así como, el sistema de control de expedientes y cálculo de prestaciones laborales, disponible en la página web del Ministerio de Trabajo y Previsión Social, http://capaigt.mintrabajo.gob.gt:3000/prestaciones/simple.

El Estado de Guatemala también considera importante resaltar las mejoras y celeridad en cuanto a los trámites de inscripción de sindicatos, reflejados en el aumento de inscripciones durante el 2015.

III. Peticiones

Con fundamento en la información, observaciones y argumentos presentado, por el Gobierno de la República del Ilustrado Estado de Guatemala, respetuosamente solicita que las mismas sea considerada previo a la publicación del Informe del Alto Comisionado de las Naciones Unidas para los Derechos Humanos sobre las actividades de su Oficina en Guatemala durante el 2015.

(Firmado) Rodrigo Villagrán Sandoval
Director Ejecutivo

United Nations A/HRC/31/G/3

General Assembly

Distr.: General
11 February 2016
Original: English

Human Rights Council
Thirty-first session
Agenda item 4
Human rights situations that require the Council's attention

Letter dated 20 January 2016 from the Chargé d'affaires a.i. of the Permanent Mission of Azerbaijan to the United Nations Office at Geneva addressed to the President of the Human Rights Council

I am hereby forwarding you the press release of the Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other international organizations in Geneva on the commemoration of the twenty-sixth anniversary of Black January in Azerbaijan (see annex).

I would be highly appreciative if you could kindly circulate the present letter and the annex thereto* as a document of the thirty-first session of the Human Rights Council under agenda item 4.

(*Signed*) Emil Hasanov

Counsellor, Chargé d'affaires a.i.

* Circulated as received, in the language of submission only.

Please recycle

Annex to the letter dated 20 January 2016 from the Chargé d'affaires a.i. of the Permanent Mission of Azerbaijan to the United Nations Office at Geneva addressed to the President of the Human Rights Council

[English only]

Commemoration of the 26th anniversary of Black January

Today is a Day of National Mourning in the Republic of Azerbaijan. Thousands of people are visiting Alley of Martyrs to commemorate the heroism of courageous sons and daughters of the Azerbaijani people perished on 20 January 1990 for the sake of freedom and independence.

20 January 1990 is a day, which went down in history of the struggle for the freedom and territorial integrity of Azerbaijan, as a heroism page. Deploying the military divisions of the Soviet army against wide mass who got out in the streets and squares of Baku for the independence of the country, had brought to the unprecedented tragedy in Azerbaijan. On that tragic night patriotic sons and daughters, for whom the country's freedom, honor and dignity was above anything else, sacrificed their own lives and became martyrs. Tragedy of January 20 brought to huge losses and deaths of innocent people, who could not stand the treacherous policy of the criminal Soviet authorities towards Azerbaijan. This tragedy demonstrated the struggle spirit, unbending character and pride of the Azerbaijani nation, who intended to the freedom and independence.

Soviet authorities tried to conceal the scale of this tragic crime from its own people and the international community. However, the grave consequences of this operation were so obvious. As a result of the bloodshed in Baku 131 innocent civilians were killed, 611 people wounded, hundreds of people arrested. State of emergency was proclaimed in the capital of Azerbaijan which lasted more than a year.

The massacre perpetrated by the Soviet military machine in Azerbaijan was an act of unseen aggression and execution of citizens by its own state. It represented a flagrant breach of the Constitutions of the former USSR and Azerbaijan SSR. By sending troops to crush the civilian population on that day, the USSR government flouted the international law, including UN Charter, the Universal Declaration of Human Rights and the 1966 International Covenant on Civil and Political Rights of which it had been a party.

This despicable act could not prevent the intention of Azerbaijani people to be independence from the Soviet Union. As a result of brave struggle the Azerbaijani people restored its independence and Azerbaijan became a sovereign State.

Today, Azerbaijani people by visiting and lying flowers on the graves of heroes are paying once again tribute to the victims of the 20th January tragedy. The life and struggle of the martyrs are the source of pride of today's and next generations. Thanks to their heroism, today, there is an independent Azerbaijani statehood among world nations. The sacred task of all Azerbaijanis is to defend and further strengthen the independence of the Republic of Azerbaijan gained at the expense of great sacrifices.

United Nations A/HRC/31/G/4

General Assembly

Distr.: General
19 February 2016

Original: English

Human Rights Council
Thirty-first session
Agenda items 2 and 10
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Technical assistance and capacity-building

Note verbale dated 16 February 2016 from the Permanent Mission of Ukraine to the United Nations Office and other international organizations in Geneva addressed to the secretariat of the Human Rights Council

The Permanent Mission of Ukraine to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and the secretariat of the Human Rights Council, and with reference to the report of the Secretary-General on the United Nations Voluntary Fund for Victims of Torture (A/HRC/31/23) issued under agenda item 2, and to the interactive dialogue on the update of the High Commissioner on Ukraine, to be held on 22 March 2016 under agenda item 10, has the honour to refer to the report entitled "Surviving Hell: Testimonies of Victims on Places of Illegal Detention in Donbas", prepared by the Coalition of Public Organizations and Initiatives "Justice for Peace in Donbas" with the support of the Helsinki Foundation for Human Rights (Warsaw). The report is available from the webpage of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (www.osce.org/odihr/185431).

In this connection, the Permanent Mission of Ukraine would appreciate it if the secretariat of the Human Rights Council could kindly circulate the present note verbale as a document of the thirty-first session of the Human Rights Council under agenda items 2 and 10.

GE.16-02521(E)

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United Nations A/HRC/31/G/5

General Assembly

Distr.: General
2 March 2016

Original: English

Human Rights Council
Thirty-first session
Agenda item 4
Human rights situations that require the Council's attention

Letter dated 26 February 2016 from the Chargé d'affaires a.i. of the Permanent Mission of Azerbaijan to the United Nations Office at Geneva addressed to the President of the Human Rights Council

I have the honour to transmit herewith a press release of the Permanent Mission of the Republic of Azerbaijan concerning the commemoration of the twenty-fourth anniversary of the Khojaly genocide in Azerbaijan.

I would be highly appreciative if you could kindly circulate the present letter and the annex thereto* as a document of the thirty-first session of the Human Rights Council under agenda item 4.

(*Signed*) Emil Hasanov

Chargé d'affaires a.i.

* Circulated as received, in the language of submission only.

GE.16-03348(E)

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Annex to the letter dated 26 February 2016 from the Chargé d'affaires a.i. of the Permanent Mission of Azerbaijan to the United Nations Office at Geneva addressed to the President of the Human Rights Council

Commemoration of the twenty-fourth anniversary of the Khojaly genocide

The most serious crimes of concern to the international community, such as war crimes, crimes against humanity and genocide, have been committed in the course of the ongoing occupation policy of the Republic of Armenia against the Republic of Azerbaijan. Today, Azerbaijan commemorates the twenty-fourth anniversary of the atrocious crimes committed against the civilians of the town of Khojaly, situated in the Nagorno-Karabakh region of the Republic of Azerbaijan.

Late into the night of February 25, 1992 the town of Khojaly has become under the intensive fire from the towns of Khankendi and Askeran that already were occupied by the Armed Forces of the Republic of Armenia. At night from 25 to 26 February the Armed Forces of the Republic of Armenia supported by the ex-Soviet 366th Regiment completed the surrounding of the town, which already isolated due to ethnic cleansing of Azerbaijani population. The joint forces have occupied the town which had been brought in rubbishes by heavy artillery shelling. After all 150 people defending the town were killed by overwhelmed fire and by superior forces of advancing army regiments, the remaining handful of the town's defendants provided a humanitarian corridor for several hundreds of the town's residents to escape from their homes. Under the heavy conditions, residents moved into the darkness of night to be met at the middle of the route by ambush of Armenian forces. Several thousands of fleeing civilians, who tried to find asylum in the near-by forests and mountains terrain, were ambushed at several points and shelled by bullet rain. The Armenian Armed Forces reached out unprotected civilians to slaughter some, finish off others, having some bodies mutilated and scalped as the notorious Karabakh war trophies.

In a few hours of night from 25 to 26 February, 613 civilians were killed including 106 women, 63 children and 70 elderly people. 1,275 inhabitants were taken hostage, while the fate of 150 persons remains unknown to this day. In the course of the genocide 487 inhabitants of Khojaly were severely maimed, including 76 children not yet of age. 6 families were completely wiped out, 26 children lost both parents, and 130 children one of their parents. Of those who perished, 56 persons were killed with especial cruelty: by burning alive, scalping, beheading, gouging out of eyes, and bayoneting of pregnant women in the abdomen.

The facts confirm that the intentional offences committed against the civilians in Khojaly constitute a crime of genocide. Thus, in accordance with II Article of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide 1948, "... genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group. From this concept it is clear that actus reus and mens rea are the main elements of the crime of genocide. In the case of Khojaly actus reus was killing and causing serious bodily or mental harm, as well as other

above-mentioned brutal acts. The specific genocidal intent (mens rea) to destroy, in whole or in part, a national, ethnical, racial or religious group, as such was also present in the case of Khojaly, because the facts confirm that the intentional massacre of the civilians in Khojaly was directed at their mass extermination only because they were Azerbaijanis. Therefore, these facts confirm that intentional slaughter of the civilians in Khojaly town constitutes a crime of genocide that was committed by Armenia against Azerbaijanis.

The genocide in Khojaly, along with other grave crimes that have been committed in the course of the ongoing occupation policy of the Republic of Armenia against the Republic of Azerbaijan, entail the state responsibility of Armenia and the individual criminal responsibility of those who participated in those acts and their accomplices and accessories. This responsibility emanates from public international law and, more particularly, from the provisions of the UN Convention on the Prevention and Punishment of the Crime of Genocide and those of the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as from the International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts.

In its judgement of 22 April 2010, the European Court of Human Rights arrived at an important conclusion with respect to the crime committed in Khojaly, qualifying the behaviour of those carrying out the incursion as "acts of particular gravity which may amount to war crimes or crimes against humanity". The European Court made in this regard the following observation, which leaves no doubt as to the question of qualification of the crime and ensuing responsibility for it.

"It appears that the reports available from independent sources indicate that at the time of the capture of Khojaly on the night of 25 to 26 February 1992 hundreds of civilians of Azerbaijani ethnic origin were reportedly killed, wounded or taken hostage, during their attempt to flee the captured town, by Armenian fighters attacking the town ..." (Judgement of the European Court of Human Rights of 22 April 2010, para. 87).

Armenian officials deny their responsibility for the crimes committed during the conflict, including against the population of Khojaly, airily falsifying facts and sharing their own interpretations of them, which deviate not only from reality but also from elementary logic. Nevertheless, even the subtlest propaganda will never manage to disprove the facts that speak of a situation diametrically opposite to that represented by the Armenian side.

Apart from the considerable information in possession of the law enforcement agencies of the Republic of Azerbaijan, the responsibility of Armenia is documented also by numerous independent sources and eyewitnesses of this genocide crime.

Western media reported with horror the killing of the innocent residents of Khojaly by indiscriminate Armenian gunfire and other brutal acts by invading troops (more information is available in document of the UN Commission on Human Rights E/CN.4/2002/151).

In his cynical admission of culpability, Armenia's then-Defence Minister and current President, Serzh Sargsyan, was quoted by the British journalist Thomas de Waal, as saying, "Before Khojaly, the Azerbaijanis thought that ... the Armenians were people who could not raise their hand against the civilian population. We were able to break that stereotype" (Thomas de Waal, Black Garden: Armenia and Azerbaijan through Peace and War (New York and London, New York University Press, 2003), p. 172)).

Author Markar Melkonian would later describe in his book how some residents of Khojaly had nearly reached safety after fleeing almost six miles but "Armenian soldiers chased them down". The soldiers, he continues, "then unsheathed the knives they had carried on their hips for so long, and began stabbing" (My Brother's Road: An American's Fateful Journey to Armenia (London and New York, I. B. Tauris, 2005), pp. 213-214).

In response to the Armenian side's gross misinterpretation of the 1992 Human Rights Watch (HRW)/Helsinki report reference to the Khojaly events, the Executive Director of that non-governmental human rights organization, in a letter of 24 March 1997 addressed to the Minister of Foreign Affairs of the Republic of Armenia, pointed out the following: "We place direct responsibility for the civilian deaths with Karabakh Armenian forces. Indeed, neither our report nor that of Memorial includes any evidence to support the argument that Azerbaijani forces obstructed the flight of, or fired on Azeri civilians" (the letter of the HRW Executive Director is available at the HRW website: http://www.hrw.org/news/1997/03/23/response-armenian-government-letter-town-khojaly-nagorno-karabakh).

The overall assessment of the causes and consequences of the war unleashed by Armenia against Azerbaijan makes it absolutely clear that the intentional slaughter of the civilians of Khojaly was not an isolated or sporadic act, but was part of Armenia's widespread and systematic policy and practice of atrocities, at the core of which are odious ideas of racial superiority, ethnic differentiation and hatred. It should be also noted that the Khojaly genocide and other crimes committed against Azerbaijanis during the conflict have finally exploded the myth depicting Armenia as an "eternal victim". The true face of the Armenian propaganda machine, built on lies and falsifications, is already being exposed, the global public opinion is beginning to perceive the truth about Khojaly. And today the Khojaly genocide has been recognized and strongly condemned by the parliaments of 14 countries, as well as 21 states of the United States of America.

In recent years, as part of the international campaign "Justice for Khojaly", numerous civil society institutions, youth and diaspora organizations have been carrying out activities for appropriate political and legal assessment to be given to this tragedy. The international recognition of the Khojaly genocide is the tribute to justice with regard to the victims of this tragedy. This will also serve to end impunity for the crimes committed in the course of aggression policy of Armenia against Azerbaijan. Ending impunity is essential not only for the purposes of individual criminal responsibility for serious crimes, but also for peace, truth, reconciliation and the rights of the victims.

United Nations A/HRC/31/G/6

General Assembly

Distr.: General
8 March 2016

Original: English

Human Rights Council
Thirty-first session
Agenda item 4
Human rights situations that require the Council's attention

Letter dated 18 February 2016 from the Permanent Representative of Georgia to the United Nations Office addressed to the President of the Human Rights Council

I have the honour to present the fourth quarterly report (October – December 2015) of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia (see annex).

In this context, I would be highly appreciative if you could kindly circulate the present letter and the annex thereto* as a document of the thirty-first session of the Human Rights Council, under agenda item 4.

(*Signed*) Shalva Tsiskarashvili

Permanent Representative

* Reproduced as received, in the language of submission only.

GE.16-03626(E)

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Annex to the letter dated 18 February 2016 from the Permanent Representative of Georgia to the United Nations Office at Geneva addressed to the President of the Human Rights Council

Fourth quarterly report (October – December 2015) of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia

I. Introduction

Aims of the report and methodology applied

1. This is the fourth quarterly report of the Ministry of Foreign Affairs of Georgia, covering the period of October-December 2015 and aiming at assessing the human rights situation in the occupied regions of Georgia. The Ministry of Foreign Affairs of Georgia will further continue the preparation of such reports on a quarterly basis. This reporting exercise aims to contribute to the provision of regular and updated information to the international community, to states as well as to international inter-governmental and non-governmental organizations, on the human rights situation in the occupied regions of Georgia.

2. As for the applied methodology, this reporting exercise consolidates and assesses existing information from various open sources, national and international, on violations of human rights in the occupied regions of Georgia. Due to limitations on its length, the report does not aim to collect/contain information on all cases of violations of human rights in the occupied regions of Georgia; it aims to consolidate and assess only some of the most known examples of violations. The methodology applied does not provide for the conduct of fact-finding visits to the occupied regions of Georgia, nor to the conduct of interviews. Therefore the methodology applied does not enable this reporting exercise to collect and produce new data on the human rights situation in the occupied regions of Georgia.

Responsibility of the occupying power for human rights violation

3. The territories of two regions of Georgia – Abkhazia, Georgia and the Tskhinvali Region, Georgia are occupied by the Russian Federation. The occupation of regions of Georgia by the Russian Federation has been recognized by the international community. The Russian Federation as the occupying power, exercises effective control over Abkhazia, Georgia and the Tskhinvali Region, Georgia. These two regions still remaining under foreign military occupation, constitute above all dangerous "black holes" in verifying human rights violations and holding the violators accountable. The occupying power, exercising effective control, has been preventing numerous international organizations, including humanitarian, from entering those territories. In the reporting period, Mr. Nils Muižnieks, the Commissioner for Human Rights of the Council of Europe visited Georgia. One of the aims of the visit was to monitor the human rights situation in the occupied territories of Georgia on the ground. Despite some efforts, the Commissioner was not allowed to enter the occupied regions of Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia.

Occupation line and installation of barbed wire fences

4. The occupation line along the administrative boundary line (ABL) with Abkhazia and the Tskhinvali Region separates Georgia from its two occupied territories. In 2009 the transfer of the control of the occupation line to the Russian FSB officers puts further restrictions on ethnic Georgians: Russia continues to place undue restrictions on the local population wishing to cross the occupation line that often runs through their orchards, yards, grazing fields, agricultural plots and cemeteries. Since January 2013 the Russian occupation forces intensified the process of the installation of barbed wire fences and other artificial obstacles along the occupation lines in Abkhazia and the Tskhinvali Region (launched back in 2009). Currently, the total length of artificial barriers along the occupation line in Tskhinvali Region is nearly 51 km. Barbed wire fences cover a stretch of more than 12 km in the Abkhazian region. The process of the installation of barbed wire fences by the Russian Federation violates human rights such as the right to free movement, the right to property, the right to family life and the right to education in the native language.

New Wave of so called "Passportisation"

5. It should be noted here that a new wave of so called "passportisation" was underway during the reporting period in the occupied region of Abkhazia[1]. This process is expected to be completed in February 2016. The above process implies issuance of 300 000 new "documents": 250 000 internal "passports" and 50 000 "residence permits". All 300 000 documents were already processed in the Russian Federation by "Goznak"[2]. Residents of Gali district fear this so called "passportisation" will further deteriorate their condition[3]. Undoubtedly, this so called "passportisation" may result in a situation where individuals, not eligible to so called new "Abkhaz passports" or so called new "residence permits", face more complications regarding the right to property and the freedom of movement across the occupation line. On 3rd November 2015, Mr Khajimba declared that he is concerned about a big number of residents of Abkhazia with Georgian citizenship. According to him, the exact number of Georgian citizens residing in Abkhazia should be known and they should adapt to local reality and for that reason a "law on legal status of foreigner" will be adopted in the near future[4]. Ethnic Georgians residing in the occupied region of Abkhazia have all grounds to be concerned about such perspective; status of a "foreigner" can at least restrict their right to property and deteriorate prospects of movement across the occupation line and, in the worst case, become ground for another wave of ethnic cleansing.

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[1] Available at http://www.apsnypress.info/news/pervaya-partiya-novykh-pasportov-grazhdanina-abkhazii-pribyla- v-respubliku/.

[2] "Goznak" is Federal State Unitary Enterprise in the Russian Federation that is 100% government-owned and is responsible for the manufacturing of banknotes, coins, stamps, ID-cards. Available at http://goznak.ru/en/about/today/.

[3] Weekly press review on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, between 12 October and 16 October 2015, p. 5.

[4] 4 Weekly press review on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, between 2 November and 8 November 2015, p. 4.

Universal Periodic Review (UPR)

6. It is important to note that Georgia's review under the UPR was held during the reporting period[5], namely in November 2015. The Universal Periodic Review (UPR) is unique mechanism of the UN Human Rights Council and it involves a periodic review of human rights records of all UN member states[6]. The goal of UPR is the improvement of the human rights situation worldwide; to achieve this, the UPR process involves assessments of states' human rights records and addressing human rights violations wherever they take place[7].

7. Under the second-cycle of the UPR, Georgia's review was held on 10 November 2015 during twenty-third session of the Human Rights Council. As part of the UPR review, the government of Georgia prepared and submitted a national report which included a separated section on the human rights situation in the occupied territories of Georgia. It is of paramount importance that during the review, on 10 November 2015, in their speeches twelve member states (Austria, Australia, the UK, Estonia, Lithuania, Latvia, the U.S., Moldova, Poland, Costa Rica, Ukraine and Slovenia) touched upon the issue of human rights violations in Abkhazia, Georgia and the Tskhinvali Region, Georgia or/and stressed the need of access of international human rights monitoring mechanisms to these regions. It should be particularly emphasized that three member states – Lithuania, Ukraine and Moldova issued UPR recommendations to Georgia on the intensification of engagement with the international community for ensuring access of international human rights monitoring mechanisms to Abkhazia, Georgia and the Tskhinvali Region, Georgia[8]. The Government of Georgia accepted all three recommendations among other recommendations.

II. Freedom from torture and ill-treatment

8. It is noteworthy that during and after the August War of 2008, numerous cases were reported from the occupied regions of Georgia of torture and ill-treatment.

9. It should be emphasized that during the reporting period[9], namely on 6th November 2015, the UN Human Rights Office of the High Commissioner (OHCHR) published the Report of Mr. Juan E. Mendez, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Georgia. The report specifies that the Special Rapporteur attempted to visit Georgia's regions of Abkhazia and the Tskhinvali region, however the authorities that exercise control over these regions denied him access[10].

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[5] October-December 2015.

[6] Basic Facts about the UPR. "OHCHR". Available athttp://www.ohchr.org/EN/HRBodies/UPR/Pages/B asicFacts.aspx.

[7] Basic Facts about the UPR. "OHCHR". Available athttp://www.ohchr.org/EN/HRBodies/UPR/Pages/B asicFacts.aspx.

[8] See Draft report of the Working Group on the Universal Periodic Review, Georgia. Human Rights Council, 23rd Session, Geneva, 2-13 November 2015.

[9] October-December 2015.

[10] Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Georgia. Human Rights Council, Thirty-first session. 6 November 2015, paragraph 4. Available at < http://www.ohchr.org/EN/Issues/Torture/SRTorture/Pages/SRTortureIndex.aspx>.

10. Several cases were noted during the reporting period on violations of the right to freedom from torture and ill-treatment. For example information available in the Georgian media and other open sources suggest the following cases that are listed below.

11. On 7th October 2015, several villages of "lower zone" of Gali district were raided by so called "Special Forces". In the village of Otobaia, Gali district two youngsters were detained and were taken to so called "police unit". One of the detainees was beaten during the detention[11].

12 On 8th October 2015, a resident of the village of Nabakevi, Gali district was severely beaten by the Russian FSB officers for so called "illegal border crossing" of the occupation line. Later the victim was transported to hospital of the village for the medical aid. In the hospital, the health condition of the victim was assessed as severely damaged[12].

13. On 6th November 2015, a resident of the village of Otobaia, Gali district crossed the occupation line while the operating crossing point was closed. The resident was returning from the Zugdidi hospital, located on the territory controlled by the central government of Georgia. The resident was detained and severely beaten by the Russian FSB officers for so called "illegal border crossing". After beating, the victim was abducted by the same Russian FSB officers. Information about the whereabouts of the victim was missing for several days. According to some eyewitnesses, the blood stains were visible on the scene where the victim was beaten[13].

III. Arbitrary detentions

14. Between 2009 and March 2015, in total 2481 people were detained by the Russian FSB officers for so called "illegal border crossing"; 1641 were detained along the occupation line in the Abkhazian region and 840 in the Tskhinvali region[14]. In 2015 503 people were detained by the Russian FSB officers for so called "illegal border crossing"; 341 were detained along the occupation line in the Abkhazian region and 162 in the Tskhinvali region[15]. However, according to information of the Press Office of the Russian FSB Border Guards, 2400 people were detained in 2015 by the Russian FSB officers for so called "illegal crossing of the Georgian-Abkhazian state border"[16].

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[11] Weekly press review on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, between 5 October and 11 October 2015, p. 8.

[12] *Occupants Severely Beaten a Resident of Gali District.* "Abkhazeti Info", 8 October 2015, available at <http://abkhazeti.info/abkhazia/2014/1444365093.php>

[13] Exclusive: Russian Militaries first beaten and then abducted Georgian. "Timer", 8 November 2015. Available at http://www.timer.ge/eqskluzivirusma-samkhedroebma-qarthveli-jer-sastikad-scemes-shemdeg-ki-gaitaces/.

[14] Georgian Citizens Detained by Russian Occupational Troops in 2015", Institute for Development of Freedom of Information (IDFI). Available at https://idfi.ge/en/georgian-citizens-detained-by-russian-occupational-troops-in-2015.

[15] Georgian Citizens Detained by Russian Occupational Troops in 2015", Institute for Development of Freedom of Information (IDFI). Available at https://idfi.ge/en/georgian-citizens-detained-by-russian-occupational-troops-in-2015.

[16] In 2015 the Russian FSB Border Guards detained 2400 people for illegal crossing of the Georgian-Abkhazian border. 22 December, 2015. Available at <http://abkhazinform.com/item/2831-s-nachala-2015-goda-rossijskie- pogranichniki-zaderzhali-bolee-2400-chelovek-za-narushenie-pravil-peresecheniya-gruzino-abkhazskoj-granitsy/>

15. The Russian FSB officers regularly carry out arbitrary detention for so called "illegal border crossing" along the occupation line. In most cases detention is followed by fines and later release. Detention period can last several days or several months, in some cases several years. Numerous cases have been reported during the reporting period[17] on arbitrary detention in the occupied regions. For example, information available in the Georgian media and other open sources report the following cases that are listed below.

16. On 13th October 2015, two shepherds from the village of Tsitelubani, Gori district were detained by the Russian FSB officers for so called "illegal border crossing". Two shepherds were in pastures along the occupation line. However two shepherds did not cross the occupation line; the Russian FSB officers entered the territory controlled by the central government and detained them. According to members of their families, shepherds used to visit the area everyday because it is on the territory controlled by the central government of Georgia[18].

17. On 17th October 2015, two residents of the village of Dvani, Kareli district were detained by the Russian FSB officers for so called "illegal border crossing". Two men were harvesting the crops in their orchards when the Russian FSB officers detained them. According to local residents, the detainees did not cross the occupation line; the Russian FSB officers entered the territory controlled by the central government and detained them[19].

18. On 21st October 2015, a woman and her son-in-law, both residents of the village of Artsevi, Kareli district were detained by the Russian FSB officers along the occupation line with Tskhinvali region. A house of the son-in-law is located in the same village but on the other side of the occupation line. A woman handed to her son-in-law, who was on the other side of the barbed wire fence, a housekeeping unit. This served the reason for their detention[20].

19. On 23rd October 2015, three residents of the village of Sakorintlo, Kaspi district were detained by the Russian FSB officers for so called "illegal border crossing". All three of them were in pasture fields for livestock grazing. According to the eyewitnesses, the detainees did not cross the occupation line, but the Russian FSB officers invaded into the territory controlled by the central government and detained them[21].

20. On 29th October 2015, the Russian FSB officers detained three journalists of online media in the village of Tagiloni, Gali district for so called "illegal border crossing". According to the eyewitnesses, the journalists visited the village of Tagiloni in order to collect information on local social conditions: they were interviewing locals. Suddenly armored military vehicle with the Russian FSB officers arrived and detained all three journalists. They were transported to the direction of the Russian military base[22].

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17. October-December 2015.

18. Two Shepherds Detained on the Territory of Tsitelubani. IPN". 12 October 2015. Availabel at http://www.interpressnews.ge/ge/konfliqtebi/349400-sofel-tsitbelubnis-teritoriaze-ori-mtsyemsi-daakaves.html.

19. Two More Georgian Arrested in Dvani. "First Channel". 17 October 2015. Available at<http://1tv.ge/ge/news/view/109297.html>

20. Situation at the Occupation Line: two residents of Artsevi detained. "First Channel". 21 October 2015. Available at <http://1tv.ge/ge/news/view/109559.html>

21. In the Village of Sakorintlo three People were Detained. "IPN". 23 October 2015.Available at <http://www.interpressnews.ge/ge/konfliqtebi/351029-sakorinthlos-ganapiras-sheiaraghebulma-pirebma-sami- adgilobrivi-daakaves.html?ar=A>

22. Journalists of Online Media were Detained in the Village of Tagiloni, Gali District. "Smo News". 29 October 2015. Available at <http://www.smoge.org/გალის-რაიონში-სოფელ-თაგი-2/>

21. On 2nd November 2015, a citizen of Georgia was detained by the Russian FSB officers along the occupation line with Abkhazia for so called "illegal border crossing". Criminal charges were brought against the detainee[23].

22. On 20th November 2015, a father and his son, both residents of the village of Kere, Gori district were detained by the Russian FSB officers for so called "illegal border crossing". Both persons were in pasture fields for livestock grazing. According to local residents, two detainees did not cross the occupation line, but the Russian FSB officers invaded into the territory controlled by the central government and detained them[24].

23. On 23rd November 2015, three residents of the village of Adzvi, located along the occupation line with Tskhinvali region, were detained by the Russian FSB officers for so called "illegal border crossing". Three people were detained when they approached local church for religious ritual. All three detainees were transported to the direction of Tskhinvali. According to local residents, the Russian FSB officers warned all other residents of the adjacent villages not to approach church due to the occupation line. Local residents complain that there are no barbed wire fences separating the church from the territory controlled by the central government and that the installed signpost marking so called "state border" does not explicitly prohibit the approaching of the church and its premises[25].

24. On 22nd December 2015, two elderly, one of them 80 year old woman, both of them residents of the village of Chvrinishi, Kareli district were detained by the Russian FSB officers for so called "illegal border crossing". According to local residents, the detention took place nearby the occupation line[26].

25. On 28th December 2015, 20 ethnic Georgians were detained in the village of Nabakevi, Gali district by the Russian FSB officers for so called "illegal border crossing". Among 20 detainees, one was a nine year old child. Despite numerous requests, father of the detained child was refused to see his detained child[27].

IV. Freedom of movement

26. People are regularly detained by the Russian FSB officers for so called "illegal border crossings" while the operating crossing points along the occupation line allow crossings only to individuals having one of the types of "documents" recognized by the

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[23] A Citizen of Georgia Detained in the Occupied Abkhazia. "Kvira". 2November 2015. Available at<http://kvira.ge/%E1%83%9D%E1%83%9E%E1%83%A3%E1%83%9E%E1%83%98%E1%83%A0%E1%83%94%E1%83%91%E1%83%A3%E1%83%9A-%E1%83%90%E1%83%A4%E1%83%AE%E1%83%90%E1%83%96%E1%83%94%E1%83%97%E1%83%A8%E1%83%98-%E1%83%A1%E1%83%90%E1%83%A5/>

[24] Father and Son Detained. "Radio Liberty". 20 November 2015. Available at<http://www.radiotavisupleba.ge/content/dakaveba-saokupatsio-khaztan/27376806.html>

[25] Three People Detained near Adzvi. "IPN". 23 November 2015. Available at<http://www.interpressnews.ge/ge/konfliqtebi/355430-sofel-adzvithan-sami-piri-daakaves.html?ar=A>

[26] Two Elderly Abducted from the Occupation Line still in Detention. "First Channel". 22 December 2015. Available at <http://1tv.ge/ge/news/view/113785.html>

[27] Occupants Detained 20 Georgians in the Village of Nabakevi. "Abkhazeti info". 28 December 2015. Available at<http://abkhazeti.info/abkhazia/2014/1451371603.php>; Russian occupants detained 20 Georgians, including a 9- year-old boy in Nabakevi. "Rustavi 2", 29 December 2015. Available at <http://rustavi2.com/en/news/35404>

occupying power and based on vague criteria as to the validity of these documents28. Numerous cases were reported during the reporting period on violations of the right to freedom of movement.

27. According to information of the Press Office of the Russian FSB Border Guards, throughout the year 2015, that includes three months of the reporting period29, the Russian FSB officers identified more than 7000 people wishing to cross so called "the Georgian-Abkhazian state border" without "proper documentation"[30]. The list of "documents" that are acceptable was published on 15 June 2015 by the Russian FSB Border Guards in the Russian language[31].31 Those unable to present those documents or show up at the crossing point out of working hours, are denied the right to cross, often leading to problems among those locals, including children and women, seeking urgent medical treatment.

28. The process of the installation of barbed wire fences by the Russian Federation along the occupation line violates human rights including the right to freedom of movement. Mr Kęstutis Jankauskas, Head of EUMM Georgia spoke at First Meeting of the EU-Georgia Parliamentary Association Committee, held on 3-4 November 2015 in Tbilisi. According to Mr Jankauskas, in region of Abkhazia installation of barbed wire fences almost doubled in order to restrict freedom of movement along the uncontrolled segments of administrative boundary line (ABL). Mr Jankauskas stated that some difficult issues may arise in the nearest future related to the interpretation by the Russian Federation of various maps. According to Jankauskas problems were faced when pupils were prevented from crossing the line for attendance of school32.

29. It is noteworthy that the ongoing construction by government of Georgia of multifunctional medical centre in the village of Rukhi, located in 5 kilometers away from the occupation line with Abkhazia, served as a reason for worrisome statements made in Abkhazia region on possible future introduction of visa regime for ethnic Georgians living in Abkhazia region or on complete closure of administrative boundary line33. It should be noted that the system of health care of Georgia operates a program that ensures free of charge medical treatment of people living in the occupied regions of Georgia. According to existing data, hundreds of residents from the occupied region of Abkhazia benefited from this medical system on the territory controlled by the central government.

30. On 23rd November 2015, residents of the of Adzvi, located along the occupation line with Tskhinvali region, were banned by the Russian FSB officers to visit the village church. The Russian FSB officers warned the residents of the village not to approach the church due to the occupation line. The local population of the village was always able to visit the church without any restriction. According to a local resident "a group of villagers

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[28] Consolidated Report on the Conflict in Georgia, Council of Europe (November 2014 - March 2015), 22 April 2015, SG/Inf (2015) 18, paragraph 44.

[29] October-December 2015.

[30] In 2015 the Russian FSB Border Guards detained 2400 people for illegal crossing of the Georgian-Abkhazian border. 22 December, 2015. Available at <http://abkhazinform.com/item/2831-s-nachala-2015-goda-rossijskie- pogranichniki-zaderzhali-bolee-2400-chelovek-za-narushenie-pravil-peresecheniya-gruzino-abkhazskoj-granitsy>

[31] Available at <http://abkhazinform.com/item/1356-pogranuppravlenie-fsb-rf-v-abkhaziiinformiruet-grazhdan-o- dokumentakh-pozvolyayushchikhperesekat-gruzino-abkhazs>

[32] Preparation of Military Unites of so called South Ossetia and Abkhazia much more Intensified then in the Past."Pirweli". 4 November 2015. Available at <http://pia.ge/show_news.php?id=53073>

[33] Temur Nardaia is not excluding the full Closure of Georgian-Abkhazian Border. "Nuzhnaya Gazeta". 9November 2015. Available at <http://abh-n.ru/t_mur-nadaraya-ne-isklyuchaet-polnogo-zakrytiya-granicy-po-reke- ingur/>

was planning to visit the church, however the Russian FSB officers in masks stopped us and forced to go back."[34]

V. Right to property

31. The issue of homes and property lost during the conflicts in Georgia remains unsolved. For years, the right to property has been subject to systematic and gross violations in the occupied regions of Georgia; hundreds of houses of ethnic Georgians were burned/destroyed deliberately during and after the August War of 2008. The situation with regard to the right to property remained the same between October and December 2015. Numerous sources suggest continuing violations of the rights to property during the reporting period. Information available in the Georgian media and other open sources report the following:

32. According to information of the Press Office of the Russian FSB Border Guards, throughout the year 2015, that includes three months of the reporting period35, the Russian FSB officers seized 1 100 kilograms of hazelnut from so called "trespassers of the Georgian-Abkhazian state border".36 During the reporting period, the Russian FSB officers were collecting so called "customs tariffs" over hazelnut transported across the occupation line.37 It should be noted that hazelnut constitutes significant source of income for some people living in the occupied region of Abkhazia, in particular, for the most of the local residents of Gali district. Many residents of the occupied region of Abkhazia try to cross the occupation line in order to transport and sell wholesale the harvested hazelnut in Zugdidi, the territory controlled by the central government of Georgia, where the price is much higher than offered by local markets in the occupied region.

33. On 23rd October 2015, the Russian FSB officers entered pasture fields of the village of Sakorintlo, Kaspi district located on the territory controlled by the central government of Georgia and detained 3 local residents and abducted 10 units of domestic cattle belonging to several families of the village.38

34. On 31st December 2015, Russian militaries deployed additional troops in Gali in order to strengthen control of the occupation line adjacent to the villages of "upper zone" and "lower zone" of Gali district. According to the disseminated information, newly deployed the Russian FSB officers have the list of Georgian families using the Georgian mobile network operators and they were tasked to seize mobile phones form these families. According to Gali residents "the situation on the ground is horrible. All local residents who were transporting products to Zugdidi market were detained by Russian militaries and all

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[34] Three People Detained near Adzvi. "IPN". 23 November 2015 Available at<http://www.interpressnews.ge/ge/konfliqtebi/355430-sofel-adzvthan-sami-piri-daakaves.html?ar=A>

[35] October-December 2015.

[36] In 2015 the Russian FSB Border Guards detained 2400 people for illegal crossing of the Georgian-Abkhazian border. 22 December, 2015. Available at <http://abkhazinform.com/item/2831-s-nachala-2015-goda-rossijskie- pogranichniki-zaderzhali-bolee-2400-chelovek-za-narushenie-pravil-peresecheniya-gruzino-abkhazskoj-granitsy>

[37] Available at <http://www.livepress.ge/ka/site/news/12927>

[38] Occupants Abducted 3 People and 10 Domestic Cattle from Kaspi District. "NewPost". 23 October 2015. Available at <http://www.newposts.ge/?l=G&id=90087>

products were seized from them. Some of the detainees were later released and some were transported to the Russian military base."[39]

VI. Right to education in the native language

35. In the Gali district there are 31 schools. By the end of the academic year 2014-2015 there were 4, 459 pupils and 918 employees in these 31 schools; from 4, 459 pupils, 4, 351 i.e. 97.57 per cent, were ethnically Georgian and from 918 employees, 91.78 per cent were ethnically Georgian.40 From 31 schools only 11 schools, all of which are in "lower zone" of Gali district, had the status of Georgian schools until the end of the academic year 2014-2015 and subjects were taught in the Georgian language.4141 As for the remaining 20 schools in Gali district, several years ago all of them were transformed to the Russian schools.42

36. From the beginning of September of the academic year 2015-2016, drastic changes were made in the curriculum of these 11 schools in "lower zone" of Gali district, namely now all subjects are taught in the Russian language in the first four grade classes i.e. in first grade, second grade, third grade and fourth grade classes.43 The policy, if continued for 6 years, will result in gradual replacement of the Georgian curriculum with the Russian curriculum for all grades in these 11 schools of "lower zone" of Gali district. The Russian curriculum means that the Russian textbooks, licensed by the Ministry of Education and Science of the Russian Federation and published in the Russian Federation, are used for the teaching.44 In these classes only 1 hour per week is allocated for learning the Georgian language as a foreign language.45

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[39] Russian Occupants Deployed Additional Troops in Gali for so called Border Control."NewPost". 31 December 2015. Available at < http://www.newposts.ge/?id=95969>

[40] Weekly press review on the human rights violations and current events in Abkhazia, prepared by the JusticeDepartment of Georgia's Autonomous Republic of Abkhazia, between 27 July and 2 August 2015.

[41] The Realm of the Possible - Finding ways forward in the Georgian-Abkhaz context: People in the Gal/i region, Conciliation Resources, July 2015, page 10. Available at < http://www.c-r.org/downloads/CR_The-Realm-of-the- possible_Gal-i_43_webEn.pdf >; Report of the Year 2014 of the Public Defender of Georgia on the Situation of Rights of the Population Affected by the Conflicts, 5 June 2015, page 26. Available at<http://www.ombudsman.ge/en/news/reports-on-the-human-rights-situation-of-conflict-affected-population-and-internally-displaced-persons-in-georgia.page>

[42] 42 "A special Report of the Public Defender of Georgia – The Right to Education in Gali District: New Developments and Challenges of the Academic Year of 2015-2016", Public Defender of Georgia, October 2015, page 5. Available at <https://drive.google.com/file/d/0B9BM3M8hbgAUNFE3RndlaXc2dFU/view?pref=2&pli=1>

[43] "A special Report of the Public Defender of Georgia – The Right to Education in Gali District: New Developments and Challenges of the Academic Year of 2015-2016", Public Defender of Georgia, October 2015, page 5. Available at <https://drive.google.com/file/d/0B9BM3M8hbgAUNFE3RndlaXc2dFU/view?pref=2&pli=1>

[44] "A special Report of the Public Defender of Georgia – The Right to Education in Gali District: NewDevelopments and Challenges of the Academic Year of 2015-2016", Public Defender of Georgia, October 2015, page 4. Available at <https://drive.google.com/file/d/0B9BM3M8hbgAUNFE3RndlaXc2dFU/view?pref=2&pli=1>

[45] Weekly press review on the human rights violations and current events in Abkhazia, prepared by the JusticeDepartment of Georgia's Autonomous Republic of Abkhazia, between 31 August and 4 September 2015.

37. According to the information disseminated on 20 October 2015, there is a grave situation in Gali, namely children are literally forced to learn the Russian language; pupils of 11 schools in "lower zone" of Gali district have difficulties in learning subjects in the Russian language. According to parents of the schoolchildren, since these schools used to be Georgian schools until the academic year 2014-2015, pupils, particularly of third and fourth grades, lack sufficient knowledge of the Russian language and they are unable to learn subjects in the Russian language.[46] The problems exist with regard to pupils of tenth grades: graduation exams in 2016 will be in the Russian language.[47]

38. Due to the complications with learning subjects in Russian, a number of parents made the decision on termination of attendance by their schoolchildren of the schools with newly introduced Russian curriculum.[48] Some families were forced to migrate from Gali district to the territory controlled by the central government in order to have access for their children of the Georgian language schools.[49] After the end of academic year 2014-2015, 55 schoolchildren changed schools and moved to schools located in the territory controlled by the central government; these are predominantly pupils of the second, third and fourth grades.[50] According to some parents, pupils cannot comprehend subjects such as mathematics and nature in a foreign (Russian) language.[51]

39. According to the information disseminated on 6th November 2015, decision had been made to force all teachers of the Georgian language in Gali district to pass a special exam in the Russian language; in case they fail, they will be dismissed.[52] According to some reports, schoolchildren and their teachers in Gali are subjected to regular and arbitrary control; their bags are forcefully checked to avoid the Georgian language materials in schools.[53]

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[46] Children in Gali are Forced to Learn in Russian. "Timer", 20 October 2015. Available at<http://www.timer.ge/%E1%83%92%E1%83%90%E1%83%9A%E1%83%A8%E1%83%98-%E1%83%A0%E1%83%A3%E1%83%A1%E1%83%A3%E1%83%9A%E1%83%98%E1%83%A1-%E1%83%90%E1%83%A0%E1%83%9B%E1%83%AA%E1%83%9D%E1%83%93%E1%83%9C%E1%83%94-%E1%83%91/>

[47] Georgian Teachers and Schoolchildren in Abkhazia will need to Pass Exams in Russian. 6 November 2015. Available at <http://www.newposts.ge/?l=G&id=91376-%E1%83%90%E1%83%A4%E1%83%AE%E1%83%90%E1%83%96%E1%83%94%E1%83%97%E1%83%98,%20%E1%83%92%E1%83%90%E1%83%9C%E1%83%90%E1%83%97%E1%83%9A%E1%83%94%E1%83%91%E1%83%90>

[48] Weekly press review on the human rights violations and current events in Abkhazia, prepared by the JusticeDepartment of Georgia's Autonomous Republic of Abkhazia, between 9 November and 16 November 2015, p.7.

[49] Georgians have Commenced to Leave Gali. "Marshal Press". 13 November 2015. Available at<http://marshalpress.ge/?p=15176>

[50] Georgians have Commenced to Leave Gali. "Marshal Press". 13 November 2015. Available at<http://marshalpress.ge/?p=15176>

[51] Georgians have Commenced to Leave Gali. "Marshal Press". 13 November 2015. Available at<http://marshalpress.ge/?p=15176>

[52] Georgian Teachers and Schoolchildren in Abkhazia will need to Pass Exams in Russian. ^ November 2015. Available at <http://www.newposts.ge/?l=G&id=91376-%E1%83%90%E1%83%A4%E1%83%AE%E1%83%90%E1%83%96%E1%83%94%E1%83%97%E1%83%98,%20%E1%83%92%E1%83%90%E1%83%9C%E1%83%90%E1%83%97%E1%83%9A%E1%83%94%E1%83%91%E1%83%90>

[53] Georgians have Commenced to Leave Gali. "Marshal Press". 13 November 2015. Available at<http://marshalpress.ge/?p=15176>

VII. Conclusions

40. It can be concluded that the situation described in the occupied regions of Georgia with regard to freedom of torture and ill treatment and examples provided for the reporting period constitute infringements on freedom from torture and ill-treatment and therefore are violations of Article 7 of the International Covenant on Civil and Political Rights (ICCPR); Article 5 of the Universal Declaration of Human Rights (UDHR); Article 3 of the European Convention on Human Rights (ECHR); and the OSCE commitments[54].

41. It can be concluded that the situation described in the occupied regions of Georgia with regard to arbitrary detention and examples provided for the reporting period constitute arbitrary detention and therefore violations of Article 9 of the International Covenant on Civil and Political Rights (ICCPR); Article 3 of the Universal Declaration of Human Rights (UDHR); Article 5 of the European Convention on Human Rights (ECHR); and relevant provisions of the OSCE commitments[55].

42. It can be concluded that the situation described in the occupied regions of Georgia with regard to freedom of movement and examples provided for the reporting period constitute violations of the right to freedom of movement, namely of Article 12 of the International Covenant on Civil and Political Rights (ICCPR); Article 13 of the Universal Declaration of Human Rights (UDHR); Article 2, Protocol No. 4 of the European Convention on Human Rights (ECHR); and the OSCE freedom of movement commitments[56].

43. It can be concluded that the situation described in the occupied regions of Georgia with regard to right to property and examples provided for the reporting period violate the right to property, namely Article 17 of the Universal Declaration of Human Rights (UDHR); Article 1, Protocol No. 1 of the European Convention on Human Rights (ECHR); and the OSCE commitments[57].

44. It can be concluded that the situation described in the occupied regions of Georgia with regard to education in the native language[58] and examples provided for the reporting

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[54] The Vienna Concluding Document (1989) prohibits torture and other cruel, inhuman or degrading treatment or punishment. Paragraph 23.4; The Paris Document (1990) also prohibits torture and other cruel, inhuman or degrading treatment or punishment; the Istanbul Charter for European Security commits to "eradicating torture and other cruel, inhuman or degrading treatment or punishment throughout the OSCE area." Paragraph 21.

[55] The Vienna Concluding Document (1989) provides for ensuring that no one is subjected to arbitrary arrest, detention or exile. Paragraph 23.1; According to the Moscow Document (1991) "no one will be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law". Paragraph 23.1 (i).

[56] According to paragraph 33 of the Moscow Document (1991), the OSCE participating States are obliged to remove all restrictions with regard to travel within the territory of a State and with regard to residence for those entitled to permanent residence within the territory of a State. And according to paragraph 20 of the Vienna Concluding Document (1989), the OSCE participating States are committed to secure the right of everyone to freedom of movement and residence within the borders of a State.

[57] The OSCE commitments impose obligation on states to ensure that everyone has the right to enjoy property and that no one may be deprived of properly except under conditions provided for by law. Moscow Document (1991), paragraph 24; Copenhagen Document (1990), paragraph 9.6.

[58] The right to receive education in the native language is widely recognized under international law. Languages and the Realization of the Right to Education, UNESCO. For example, under the ECHR, the right to education implies the right to be educated in the national language. Belgian Linguistic

period constitute violations of the right to education in one's native language and therefore violations of Article 26 (read in conjunction with Article 2) of the Universal Declaration of Human Rights (UDHR); Article 2, Protocol No. 1 of the European Convention on Human Rights (ECHR); Article 28 (read in conjunction with paragraph 1 of Article 2) of the UN Convention on the Rights of the Child; and relevant provisions of OSCE commitments[59]

VIII. Appeal to the international community

45. The Ministry of Foreign Affairs of Georgia appeals to the international community, states as well as international intergovernmental and non-governmental organizations

- to continue recognizing extensively and widely the occupation of the territories of Georgia by the Russian Federation.
- to continue calling on the Russian Federation to bear responsibility for human rights violations on the occupied regions of Georgia.
- to continue calling on the Russian Federation to stop placing and remove barbed wire fences and other artificial obstacles and banners along the occupation line.
- to take additional measures in order to monitor and report on the human rights situation in the occupied regions of Georgia, more specifically, the Ministry of Foreign Affairs of Georgia appeals to:

  i) the Office of the United Nations High Commissioner for Human Rights (OHCHR) to take additional measures in order to regularly address and assess the human right situation in Abkhazia and Tskhinvali region of Georgia.

  ii) the UN Human Rights Council's Special Procedure Mandate holders to take additional measures in order to address and report on the human right situation in Abkhazia and Tskhinvali region of Georgia.

  iii) the Commissioner for Human Rights of the Council of Europe to take additional measures in order to address and report on the human right situation in Abkhazia and Tskhinvali region of Georgia.

  iv) the OSCE and its autonomous institutions, namely the Office for Democratic Institutions and Human Rights (ODIHR) and the Office of the High Commissioner on National Minorities (HCNM) to find ways for monitoring the human rights situation in Georgia's occupied regions. Such steps could, inter alia, include undertaking a follow-up mission to the occupied regions of Georgia and preparing a report on the status of the implementation of the recommendations contained in the ODIHR/HCNM 2008 Report on "Human Rights in the War Affected Areas following the Conflict in Georgia".

Case, Judgment of 23 July 1968, para 3 (A.6 (1968), p.31). In Cyprus v. Turkey the Court stated that the abolishing the facility for Greek-Cypriot children in Northern Cyprus for pursuing a secondary education in the Greek language violated Article 2 of the ECHR. Judgment of 10 May 2001, paragraphs 273-280.

[59] According to paragraph 63 of the Vienna Document (1989), all shall have access to "the various types and levels of education without discrimination as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

- to continue calling on the Russian Federation to allow a) access of the international human rights monitoring mechanisms to the occupied regions of Georgia; b) access of the relevant missions of international organizations (e.g. EUMM), including humanitarian organizations, to the occupied regions of Georgia through legal routes.
- to continue and intensify condemning violations of human rights such as freedom of movement; freedom from torture and ill-treatment; the right to liberty; the right to property and the right to receive education in the native language in the occupied regions of Georgia.

United Nations A/HRC/31/G/7

General Assembly

Distr.: General
24 March 2016

Original: English

Human Rights Council
Thirty-first session
Agenda item 6
Universal periodic review

Letter dated 17 March 2016 from the Permanent Representative of Azerbaijan to the United Nations Office at Geneva addressed to the President of the Human Rights Council

I have the honour to transmit herewith the mid-term report of the Government of the Republic of Azerbaijan on the implementation of the recommendations contained in the report of the Working Group on the Universal Periodic Review (A/HRC/24/13) (see annex).

Ensuring human rights and freedoms is a priority for the Government of the Republic of Azerbaijan. As a party to the core international legal instruments in the field of human rights, Azerbaijan actively cooperates with all mechanisms of the Human Rights Council. In this regard, it attaches great importance to the universal periodic review mechanism as one of the main tools of the Council.

The above-mentioned mid-term report is presented by the Government of the Republic of Azerbaijan on a voluntary basis as a sign of its commitment to the promotion and protection of all human rights in the country. The Republic of Azerbaijan is of the view that the update of the Human Rights Council on the national measures carried out in the field of human rights will contribute to its more effective participation in the third cycle of the universal periodic review.

I would be highly appreciative if you could kindly circulate the present letter and the annex thereto* as a document of the thirty-first session of the Human Rights Council under agenda item 6.

(*Signed*) Vaqif Sadiqov

Ambassador, Permanent Representative

* Reproduced as received, in the language of submission only.

Annex to the letter dated 17 March 2016 from the Permanent Representative of Azerbaijan to the United Nations Office at Geneva addressed to the President of the Human Rights Council

Mid-term report of the Government of the Republic of Azerbaijan on implementation of recommendations indicated in the report of the Working Group of the Human Rights Council on the Universal Periodic Review (A/HRC/24/13)

The human rights and freedoms are guaranteed by the Constitution of the Republic of Azerbaijan and other legislative acts.

In addition, measures aimed at increasing the efficiency of protection of human rights and freedoms, development of legal culture, improvement of legal basis and legal defence system have been undertaken within the framework of the "National Action Program on Increasing Efficiency of Protection of Human Rights and Freedoms in the Republic of Azerbaijan", which was approved by Presidential decree dated 27 December 2011.

The Government of the Republic of Azerbaijan pays special attention to the cooperation with international organizations in the field of protection and promotion of human rights. In this respect, it is worth to mention the visits of Ms. R. Manjoo, the United Nations (UN) Human Rights Council (HRC) Special Rapporteur on Violence against Women, its Causes and Consequences held on 25 November–6 December 2013, Mr. C. Beyani, UN HRC Special Rapporteur on the Human Rights of Internally Displaced Persons, held on 18-24 May 2014 and UN Working Group on Human Rights and Business held on 18-27 August 2014. Moreover, delegation of the UN Subcommittee against Torture paid a visit to Azerbaijan on 16-24 April of 2015.

The visit of UN HRC Working Group on Arbitrary Detention is expected to be held on 16-25 May 2016 upon the invitation of the Government of the Republic of Azerbaijan. The visit of Mr. M. Forst, the UN HRC Special Rapporteur on situation of Human Rights Defenders is planned for this year to Azerbaijan.

The Government of the Republic of Azerbaijan submitted its reports to relevant UN treaty bodies during the previous years. The 5th periodic report of the Republic of Azerbaijan on the implementation of its obligations under the "Convention on Elimination of All Forms of Discrimination Against Women" was considered during the 60th session of the UN Committee on Elimination of Discrimination Against Woman in Geneva on 18 February 2015.

The Fourth periodic report of the Republic of Azerbaijan submitted under the "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" was considered within the framework of the 56th session of the UN Committee against Torture on 11-12 November 2015.

Trainings, scientific-analytical and awareness raising measures in the field of human rights continue to be held in accordance with the "National Action Program on Increasing Efficiency in the Protection of Human Rights and Freedoms".

In accordance with a two years project named "European Convention on Human Rights and case law of the European Court on Human Rights", the seminars and trainings are held for judges, prosecutors, advocates and other lawyers in the capital and different

regions within the framework of the Action Plan of the Council of Europe for Azerbaijan for the years of 2014–2016.

The Human Rights Commissioner (Ombudsman), acting as an independent monitoring mechanism, is supervising the implementation of recommendations given under the Universal Periodic Review.

Participation of civil society institutions, local NGOs and communities were ensured in all public hearings held in all cities and districts of the country to monitor the promotion and implementation of the National Action Plan as well as to raise an awareness of the population on the right to vote.

As a result of measures taken to reduce poverty, the extreme poverty is eliminated and the GDP, average monthly salary and people's income are increased. More than 68 000 enterprises started to operate during the period of 2004-2015 and more than 1 400 000 new work places have been established. By the time of 1 January 2015, the level of unemployment has decreased to 4.9% and the level of poverty to 5%.

Restructuring base part of the pension system is considered in the "Reform Concept of the Pension system of the Republic of Azerbaijan for the years of 2014-2020".

On 23 February 2015, the President of the Republic of Azerbaijan issued a decree on "Improvement of the Targeted State Social Aid System" for creating efficient system for citizens and providing electronic service. Moreover, the draft law on "Mandatory insurance from unemployment" was prepared. By the time of 1 October 2015, targeted state social assistance have been received by 499 700 members of the 115 200 families and the social aid is determined for 344 000 persons in the country.

The certain measures, among others, aimed at the improvement of social capital, efficient social security and modern education system, as well as providing gender equality and development of the family institute are going to be implemented within the Development Concept named "Azerbaijan 2020: Look into the future".

The State Program on social and economic development of regions covering the period of 2014-2018 is successfully implemented.

"National Action Plan on combating Human Trafficking covering the period of 2014-2018" provides measures for protection and social rehabilitation of victims of human trafficking, as well as raising awareness mechanisms.

Amendments were made by the decision of the Cabinet of Ministers of the Republic of Azerbaijan dated 14 October 2015 to the ''Program on elimination of social problems that creates conditions for human trafficking".

As a result of operational and preventive measures taken during the period of 2014-2015, 52 persons were charged for human trafficking and 115 persons were identified as a victim of human trafficking. The victims were placed in shelters, provided with legal, medical, psychological support and reintegrated to the society.

The Program on "Social rehabilitation and reintegration of children, who are victims of human trafficking" was approved by the Cabinet of Ministers of the Republic of Azerbaijan on 6 February 2014. The State Program on "Better health for mothers and children covering the period of 2014-2020" was approved by a decree of the President of the Republic of Azerbaijan on 13 June 2014. At the same time, preparation of the "Azerbaijani family Strategy'', "Child Code'', "National Child Strategy" are under consideration.

Applications on cases of violence against women, as well as domestic violence are examined with special discretion. The operational and investigative measures are being

taken with respect to all such cases. Local authorities have set up coordination councils for providing assistance in the fight against domestic violence. According to statistics, 4 244 offences against women has been registered within 9 months of 2015. 1 780 of them were classified as acts of violence and 646 out of them as violence on domestic basis. 2187 persons were brought to justice.

On 17 October 2014, the amendments were made to the Family Code to take care of the population's health. According to that amendment the persons wishing to create a family shall pass medical examination in order to register the marriage.

According to statistics of 2015, the role of women in decision making process is increased. Today, women members of parliament constitute 16, 8%, women civil servants - 28%, women elected as mayors - 29,7%, women elected to municipalities - 35%, women entrepreneurs - 19,4%. In the justice system, 1153 women are in of low and medium position while 84 ones are in a high as well as 65 women work as a judge. In the system of Internal Affairs, 287 women are holding middle and senior chief positions and 835 women are low ranking chiefs. 78 women are holding deputy positions in local executive bodies.

The Government undertakes consistent measures to promote development of civil society in the country. Creation of a "Personal electronic window" ensures the exchange of information oetween non-governmental organizations and governmental institutions.

The preparation of "National Action Program in the field of development of civil society" within the framework of the "Azerbaijan 2020: Look into the future" Development Concept is under consideration. This program will entail preparation and adoption of new legislative acts stimulating improvement of civil society, helping both the government and private sector to promote development of civil society, rendering financial assistance to the projects and programs of non-governmental organizations, establishing, educational centres and many other activities.

The Government Support Council to NGOs under the President of the Republic of Azerbaijan granted 5 527 492 AZN to 506 programs in 2013, 3 934 168 AZN to 403 programs in 2014, 5 255 343 AZN to 520 programs in 2015. Moreover, the Youth Foundation under the President of the Republic of Azerbaijan granted 3 596 885 AZN to 501 programs in 2013, 3 414 600 AZN to 827 programs in 2014, 4 651 900 AZN to 876 programs in 2015.

At the same time, according to the law of the Republic of Azerbaijan on "Public Participation" that came into force on 1 June 2014, NGO Public Councils have been created. These Councils allow NGOs to carry out comprehensive control over society and to participate in decision making process.

The Government of the Republic of Azerbaijan continues to take effective and persuasive measures in fighting against corruption. Today, more than 200 public and private services, including those of 12 governmental institutions are rendered by Azerbaijani Service and Assessment Network (ASAN) service centres. At the same time the establishment of ASAN service centres in the regions started since 2012. More than 7 400 000 applications have been submitted to ASAN service centres during the period of 2013-2015. 98% of citizens have been satisfied with the services provided by ASAN centres. ASAN Service was awarded with the UN Public Service Award during the annual session of the UN Committee of Experts on Public Administration in 2015.

In 2015, preliminary investigation of 207 criminal proceedings against 301 persons were completed by the General Department on Combating Corruption under the Office of Prosecutor General and 200 criminal cases about 295 persons have been transferred to the court for adjudication. 36 101 440 AZN or 25, 1 % from total amount of 143 883 201 AZN

were recouped during preliminary investigation for the damage caused. 70 or 26, 1 % of 268 suspects in corruption were imprisoned.

Several judges were faced with disciplinary measures for corruption cases; 6-dismissed, 4-demoted, 11-received reprimands, 2-received a warning by the Judicial Council of the Republic of Azerbaijan.

Fight against corruption was one of the priorities of the Republic of Azerbaijan, during its chairmanship in the Committee of Ministers of Council of Europe (May – November of 2014). Under the Chairmanship's priority, the Conference on international standards and national experiences in the fight against corruption was held together by the Government of Azerbaijan, GRECO and International Anti-Corruption Academy in Baku in July of 2014.

A draft resolution on "Combating corruption by rendering efficient public service through the implementation of technological innovations and positive experience" was submitted by the Republic of Azerbaijan and unanimously approved by the 6th Conference of States Parties to the UN Convention against Corruption held in St. Petersburg, Russia on 2-6 November 2015.

A representative of Azerbaijan was elected to the Board of Governors of the International Anti-Corruption Academy at its 4th Assembly held in Vienna on 9-11 December 2015.

Azerbaijan represents a model of religious and intercultural tolerance. Special attention is paid to historical and religious monuments in the country. Mosques, churches and synagogues have been repaired and reconstructed. The total number of registered religious organizations is 632 that include 12 Christian, 6 Jewish, 2 Baha'i and 1 Krishna communities.

Regional conferences on "Government and religion: protection of our national, moral and traditional values", "National traditions and modern times" and "Traditional Islamic values and Modernity", as well as seminars and trainings were held in 2014-2015 for religious enlightenment, raising of level of tolerance in religious communities, preventing of religious intolerance, especially religious radicalism in the country.

A Service of the State Counsellor on Multiculturalism, Interethnic and Religious Affairs of the Republic of Azerbaijan was set up by a decree of the President of the Republic of Azerbaijan on 28 February 2014. In order to protect, develop and promote multicultural traditions, the President of the Republic of Azerbaijan announced 2016 as a year of multiculturalism in Azerbaijan.

Government of the Republic of Azerbaijan has hosted a number of international events, carried out various international projects during the period of 2013-2015 and contributed to intensification of inter civilizational and intercultural dialogue. The events hosted by the Republic of Azerbaijan include, inter alia, the conference on "Intercultural dialogue: relations between culture and religion" held within the framework of Azerbaijan's chairmanship in the Committee of Ministers of the Council of Europe on 1-2 September 2014, the international conference on "Islamic education and modern age" held on 16 April 2015, the "3rd World Forum on Intercultural Dialogue" held on 15 May 2015, jointly organized with UNESCO, the Government of the Republic of Azerbaijan and Haydar Aliyev Foundation in Baku. The 7th Global Forum of UN Alliance of Civilizations (INAOC) will be held in Baku on 25-27 April 2016.

"National Action Program on Protection of Rights of Persons with Disabilities for the period of 2016-2021" was adopted and a draft law on "Rights of Persons with disabilities" was elaborated. The persons with disabilities were provided with 172

apartments in 2014, 199 apartments and 82 individual houses in 2015. 1533 such persons were provided with the vehicles in 2014 and 400 persons - in 2015.

The measures have been taken to improve and facilitate life conditions of internally displaced persons (IDPs) and refugees. The activities of the Government of the Republic of Azerbaijan aimed at providing gradually the social security, employment, education, accommodation, and medical support for this category of persons is conducted in compliance with relevant state programs approved by decrees of the President of the Republic of Azerbaijan.

Following the implementation of State Programs on improvement of life conditions of refugees and IDPs, 93 modern settlements with all necessary social and technical infrastructure in the area covering 2 900 000 square meters have already been built for refugees and IDPs in more than 30 cities and regions of the Republic of Azerbaijan, by using the allocations from the State Oil Fund and other sources.

165 000 out of 380 000 IDPs with working capacity have been provided with permanent jobs in state-owned institutions and other places, 200 000 IDPs have been provided with temporary jobs, 4 400 IDPs have been given unemployed status, 3000 IDPs have been sent to special trainings, 2000 IDPs have been employed in the sphere of paid social work, 16 000 families became recipients of targeted social assistance in recent years.

A loan agreement concluded between the World Bank and the Government of the Republic of Azerbaijan ensured implementation of 586 micro projects at the value of 35 000 000 AZN that enabled 348 000 persons to enjoy benefits. 11 000 IDPs, including their family members were issued 7 700 000 AZN loan. 2 000 IDPs have been given 44 000 000 AZN concessional loans through the National Fund for Entrepreneurship Support to invest in private business projects. The level of poverty among IDPs has decreased from 75% to 12% in recent 12 years.

The Migration Code of the Republic of Azerbaijan was adopted on 2 July 2013 and came into force on 1 August 2013. This Code regulates migration processes and determines the legal status of foreigners and stateless persons. At the same time, the State Migration Service of the Republic of Azerbaijan prepared a strategic plan for the period of 2016-2018.

Since the Nagorno-Karabakh region of the Republic of Azerbaijan and its seven districts surrounding that region remain under the Armenian occupation, the Republic of Azerbaijan is unable to guarantee the implementation of its human rights obligations and recommendations of UN HRC Working Group on the Universal Periodic Review in the territories of the Republic of Azerbaijan occupied by Armenia, until the liberation of those territories from the occupation and complete elimination of the consequences of that occupation.

The Republic of Azerbaijan supports the peaceful settlement of Armenia-Azerbaijan Nagorno-Karabakh conflict on the basis of norms and principles of international law particularly those relating to the respect of territorial integrity, sovereignty and inviolability of internationally recognized borders of the states. The aggression of Armenia against Azerbaijan must be stopped and Armenia must withdraw all its occupying forces from all occupied territories of the Republic of Azerbaijan. Only after this, due condition to ensure human rights and freedoms in the occupied territories of the Republic of Azerbaijan would appear.

Annex to the note verbale dated 22 March 2016 from the Permanent Mission of Turkey to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

I have the honour to refer to the Report of the Office of the United Nations High Commissioner for Human Rights on the question of human rights in Cyprus (A/HRC/31/21) which was circulated on 1 February 2016 and to bring to your kind attention the following facts and considerations:

With reference to the "Introduction" section of the Report, which tries to reflect the situation in the Island, it is necessary to elaborate on various points which require clarification.

The references to the so-called "Government of the Republic of Cyprus" reflect neither the realities nor the legal position on the Island. Ever since the forcible expulsion of the Turkish Cypriot co-founding partner from the 1960 partnership Republic, there has been no constitutional Government representing both peoples of the Island. The Turkish Cypriot people did not accept the forceful takeover of the Partnership State by the Greek Cypriot side in 1963 and, through their decisive resistance, prevented the Greek Cypriot side from extending its authority over them. Since December 1963, there has not been a joint central administration on the Island, capable of representing both peoples, either legally or factually. Each side has since ruled itself, while the Greek Cypriot side has continued to claim that it is the "Government of Cyprus".

The references in Paragraph 10, to the recommendations received by the Government of Turkey during the twenty-first session of the Universal Periodic Review (UPR) in relation to human rights situation in Northern Cyprus, is inappropriate as it only serves the political purposes and claims of the recommending countries and creates the impression that Turkey has authority and jurisdiction in Northern Cyprus and uses it to prevent the implementation of human rights. The report deals with human rights situation in Cyprus whereas the cited UPR session deals with human rights situation in Turkey and was not related to Cyprus. Turkey has no authority or jurisdiction in Northern Cyprus. Northern Cyprus is under the full control and jurisdiction of the Turkish Cypriot authorities within the rule of law and the responsibility for all matters, including human rights lies solely with the relevant Turkish Cypriot authorities. We strongly believe that future reports should refrain from such references.

It is a shortcoming of the report that reference to the question of missing persons in Section III (A), omits to include an important fact recorded by the Human Rights Committee in its concluding observations on the fourth periodic report of Cyprus (31 March 2015). The Human Rights Committee expressed concern regarding the approach of the Greek Cypriot authorities, over reports that investigations of missing persons of Greek Cypriot nationality were prioritized over those relating to missing Turkish Cypriots. The Committee had also advised that the Greek Cypriot authorities ought to take immediate steps to investigate all outstanding cases of missing persons from both the Greek and Turkish communities in an effective, transparent, independent and impartial manner.

It is a fact that there are incidents of racist attacks on Turkish Cypriots by the Greek Cypriots and these should have been referred to under the subsection "Non-discrimination". In Paragraph 25, reference is made to the joint statement made by the Turkish Cypriot and Greek Cypriot leaders following the violent attacks against Turkish Cypriots in South Cyprus on 16 November 2015, but no details are given. In the letter addressed to your Excellency dated 12 February 2015 in response to the Report of the Office of the United

Nations High Commissioner for Human Rights on the question of human rights situation in Cyprus (A/HRC/28/20) on 23 January 2015, it had been brought to your attention that Mr. Kirakos Kenevezos, the Greek Cypriot Minister of Education, had announced that the 2013-2014 education term in South Cyprus should include the notion of the Cyprus problem stating the slogan of the upcoming educational term as "I recognize, I don't forget, I demand" calling on the students to recognize and not to forget the so-called "occupied territories", as well as to demand their "independence". We fear that this may be behind the fact that some of the perpetrators who carried out the attacks of 16 November 2015 were students and the events leading to the violence was actually condoned by the Greek Cypriot Ministry of Education.

On 16 November 2015, followers of Greece's Neo-Nazi Golden Dawn and members of far right party ELAM in South Cyprus attacked Turkish Cypriots who crossed into South Cyprus. Hundreds of ELAM members including students threw stones and firecrackers towards the North from border gates, damaged four vehicles belonging to Turkish Cypriots and injured two Turkish Cypriots during the attacks. The Greek Cypriot daily Cyprus-Mail reported that according to police reports, there were three separate incidents in Nicosia and as a result of these attacks two Turkish Cypriots were treated in hospital of which one suffered an eye injury and the other was hurt on the chest. The Greek Cypriot police said in the first incident that pupils attacked a car with Turkish Cypriot license plates but the driver escaped uninjured. The driver was too afraid to file a complaint and was escorted by police to the border crossing. In the second incident that took place nearby to the first one, a father and a son were attacked inside their car by a group of pupils throwing stones. The father was injured and the car was damaged. In the third incident a Turkish Cypriot suffered injury to the eye following an attack by pupils. Mr. Merkan Numansoy who was injured when a stone that was hurled towards his car hit his chest, stated that although there was a police station 100 meters away from where the event took place, the police authorities did not intervene. Numansoy added that when they went to the Greek Cypriot police station to make a complaint, the police warned them "it could be dangerous to cross over to South Cyprus between 15-20 November".

It was reported in the Greek Cypriot press that the Ionas Nicolaou the Justice Minister of the Greek Cypriot administration ordered a probe into claims that police officers may have not conducted themselves properly during and after the incidents. It was further reported by the Greek Cypriot daily newspaper Haravgi that the offenders were shouting at Turkish Cypriots "you are going to die on Hellenic land" during the attacks. The Greek Cypriot press also referred to the fact that Eliza Savvidou, the Ombudswoman for the Greek Cypriot administration announced the launch of an investigation against discrimination against Turkish Cypriots and was quoted to state that "... attacks bear all the hallmarks of hate crimes, that is, crimes committed against people, not because of their individual stance or behaviour, but due to enmity and prejudice directed at their racial, ethnic, and religious identity". To this day there has been no conclusive action taken towards those who carried out these attacks. In fact, it was reported by Greek Cypriot Alithia newspaper that none of the attacks which took place against Turkish Cypriots between the years 2004 and 2012 have been penalized by the Greek Cypriot legal system. The article further cites the statement of the Greek Cypriot Ombudswoman, who confirmed that adequate investigation has not been carried out regarding any of the many attacks against Turkish Cypriots in Southern Cyprus.

Regarding the freedom of movement and religious freedom, a significant impediment on the Turkish Cypriots is not sufficiently addressed in the relevant paragraphs of the report (para.32 and 41). Many Turkish Cypriots do not have access to religious sites situated in South Cyprus as they are not allowed to cross to South on the basis of the origin of their ancestors, namely because their parents or grandparents originated from Turkey. In addition to its findings already included in the draft report, in its concluding observations

on the fourth periodic report of Cyprus (31 March 2015), the Human Rights Committee had also expressed concern that the travel restrictions at the crossing points prevent some Turkish Cypriots from undertaking religious pilgrimages in the southern part of the island. Overall it is fair to say that the arbitrary Greek Cypriot policy on crossings does not only impede freedom of movement but also freedom of religion. The Turkish Cypriot side has taken a unilateral initiative and removed visa requirements as a goodwill gesture amid the ongoing negotiations. The Turkish Cypriot side also continues to fully support and exert utmost effort towards the opening of two new crossing points agreed by the two Leaders.

In the section on freedom of religion and cultural rights, the number of religious sites in Northern Cyprus where religious services were conducted for the first time during the reporting period (1 December 2014 and 30 November 2015) is given as 14 (para.40) whereas the actual number of such services is 18.

I wish to bring to your kind attention the procedure followed by the Turkish Cypriot side in face of the claims in Paragraph 40 that the Turkish Cypriot side did not approve several requests to hold religious services in certain religious sites. The Turkish Cypriot side evaluates the requests based on four criteria: firstly, the day of the requested service to be a religiously significant day; secondly, the physical condition of the religious site should be suitable to host a religious service; thirdly, the site should not already be in use as a cultural facility and lastly, the religious site should not be situated in a military zone. The Turkish Cypriot side grants utmost importance to facilitate as many requests as possible and even continues to allow services at three churches situated in military zones. The restoration of the ancient church of Ayia Marina/Gürpınar, which is situated within a military area, is underway and aside the said restoration, an alternative road will also be built to further ease access to the Church. These efforts clearly demonstrate the sincerity and respect shown by the Turkish Cypriot side regarding freedom of religion and the preservation of cultural heritage.

The Turkish Cypriot side has established a mechanism where permission is readily granted when the correct channels are adhered to. According to the established practice, Maronites and Greek Cypriots residing in the TRNC communicate their request for the holding of a religious service to the District Officer and those residing in South Cyprus communicate their request to UNFICYP. In both cases these requests are then conveyed to the Ministry of Foreign Affairs of the TRNC.

Despite the good-will displayed by the Turkish Cypriot side on the issue of religious freedom, it should be noted that the Greek Cypriot side is continuing its restrictive policies by preventing many Turkish Cypriots from visiting religious sites in the South on the basis of their place of birth.

In regard to paragraph 49, the alternative appointments for school teachers have currently been approved. On the issue of reviewing textbooks; it is a universally accepted fact that textbooks, in general, should not promote feelings of intolerance and enmity. In the case of Cyprus, it is imperative that all concerned should help promote the establishment of friendly and constructive relations between the two peoples on the Island necessary for creating an atmosphere conducive to a comprehensive settlement. In this spirit, the Turkish Cypriot side approaches the issue of textbooks with great sensitivity and has, in the past years, revised all its textbooks ensuring that they contain no elements of hatred or intolerance. However, it is unfortunate that the Greek Cypriot textbooks still contain material which are offensive to the Turkish Cypriots and which incite feelings of enmity amongst Greek Cypriot children towards Turkish Cypriots. Given the vital role of youth in the future of the Island, one must acknowledge that such material should be eradicated from textbooks and replaced with materials conducive to tolerance and reconciliation. In view of the attacks stated above and their clear links with the Greek Cypriot national education system, reviewing textbooks which shall be used for teaching in the schools for Greek

Cypriots in the North by our authorities can only be regarded as a standard precaution to prevent any unnecessary tension.

Following the attacks mentioned above, upon the proposal of the Turkish Cypriot side, a bi-communal Technical Committee on Education was established by the two Leaders in order to review current education systems and to research how education can counter prejudice and discrimination. The Committee has since its establishment commenced its works.

Within the framework of Confidence Building Measures, the two Leaders agreed to establish a bi-communal Technical Committee on Gender Equality. The Committee, which has the full support from the Turkish Cypriot side, through its activities, is expected to further ease relations between the two communities and contribute towards efforts to find a comprehensive solution to the long overdue Cyprus issue.

Finally, I would like to underline that none of the UN Security Council resolutions and/or reports refer to an "occupation" or "occupied areas" in Cyprus. It needs to be stressed that the UN approach and established terminology regarding the Cyprus issue is primarily based on the principle of impartiality. We, therefore, expect the OHCHR to be more selective in quoting international and regional human rights mechanisms, and to refrain from using references contradicting established UN terminology.

I would like to take this opportunity to emphasize that the Turkish Cypriot side reiterates its strong commitment to continue its efforts for promoting human rights in North Cyprus.

I hope and trust that in the interest of reflecting a more objective and balanced account of the situation vis-à-vis the issue of human rights in Cyprus, the views and observations of the Turkish Cypriot side will be duly taken into consideration and would be reflected accordingly in future Reports of the Human Rights Council.

Please accept, Excellency, the assurances of my highest consideration.

(*Signed*) Emine Colak

Minister of Foreign Affairs

United Nations A/HRC/31/G/9

General Assembly

Distr.: General
6 April 2016

Original: English

Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Note verbale dated 22 March 2016 from the Permanent Mission of the Russian Federation to the United Nations Office at Geneva addressed to the secretariat of the Human Rights Council

The Permanent Mission of the Russian Federation to the United Nations Office and other International Organizations in Geneva presents its compliments to the secretariat of the Human Rights Council and has the honour to forward the joint declaration of Pope Francis and Patriarch Kirill of Moscow and All Russia, issued on 12 February 2016 following their first meeting, in Havana (see annex).

The Permanent Mission requests the secretariat to publish the joint declaration as a document of the thirty-first session of the Human Rights Council in all official languages of the United Nations.

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Annex to the note verbale dated 22 March 2016 from the Permanent Mission of the Russian Federation to the United Nations Office at Geneva addressed to the secretariat of the Human Rights Council

[*Russian*]

Joint declaration of Pope Francis and Patriarch Kirill of Moscow and All Russia

The document was adopted following the meeting of His Holiness Pope Francis and His Holiness Patriarch Kirill of Moscow and All Russia, which took place on 12 February 2016 in Havana (Cuba).

"The grace of the Lord Jesus Christ and the love of God the Father and the fellowship of the Holy Spirit be with all of you" (2 Cor 13:13).

1. By God the Father's will, from which all gifts come, in the name of our Lord Jesus Christ, and with the help of the Holy Spirit Consolator, we, Pope Francis and Kirill, Patriarch of Moscow and All Russia, have met today in Havana. We give thanks to God, glorified in the Trinity, for this meeting, the first in history.

It is with joy that we have met like brothers in the Christian faith who encounter one another "to speak face to face" (2 Jn 12), from heart to heart, to discuss the mutual relations between the Churches, the crucial problems of our faithful, and the outlook for the progress of human civilization.

2. Our fraternal meeting has taken place in Cuba, at the crossroads of North and South, East and West. It is from this island, the symbol of the hopes of the "New World" and the dramatic events of the history of the twentieth century, that we address our words to all the peoples of Latin America and of the other continents.

It is a source of joy that the Christian faith is growing here in a dynamic way. The powerful religious potential of Latin America, its centuries-old Christian tradition, grounded in the personal experience of millions of people, are the pledge of a great future for this region.

3. By meeting far from the longstanding disputes of the "Old World", we experience with a particular sense of urgency the need for the shared labour of Catholics and Orthodox, who are called, with gentleness and respect, to give an explanation to the world of the hope in us (cf. 1 Pet 3:15).

4. We thank God for the gifts received from the coming into the world of His only Son. We share the same spiritual Tradition of the first millennium of Christianity. The witnesses of this Tradition are the Most Holy Mother of God, the Virgin Mary, and the saints we venerate. Among them are innumerable martyrs who have given witness to their faithfulness to Christ and have become the "seed of Christians".

5. Notwithstanding this shared Tradition of the first ten centuries, for nearly one thousand years Catholics and Orthodox have been deprived of communion in the Eucharist. We have been divided by wounds caused by old and recent conflicts, by differences inherited from our ancestors, in the understanding and expression of our faith in God, one in three Persons — Father, Son and Holy Spirit. We are pained by the loss of unity, the outcome of human weakness and of sin, which has occurred despite the priestly prayer of

Christ the Saviour: "So that they may all be one, as you, Father, are in me and I in you … so that they may be one, as we are one" (Jn 17:21).

6. Mindful of the permanence of many obstacles, it is our hope that our meeting may contribute to the re-establishment of this unity willed by God, for which Christ prayed. May our meeting inspire Christians throughout the world to pray to the Lord with renewed fervour for the full unity of all His disciples. In a world which yearns not only for our words but also for tangible gestures, may this meeting be a sign of hope for all people of goodwill!

7. In our determination to undertake all that is necessary to overcome the historical divergences we have inherited, we wish to combine our efforts to give witness to the Gospel of Christ and to the shared heritage of the Church of the first millennium, responding together to the challenges of the contemporary world. Orthodox and Catholics must learn to give unanimously witness in those spheres in which this is possible and necessary. Human civilization has entered into a period of epochal change. Our Christian conscience and our pastoral responsibility compel us not to remain passive in the face of challenges requiring a shared response.

8. Our gaze must firstly turn to those regions of the world where Christians are victims of persecution. In many countries of the Middle East and North Africa whole families, villages and cities of our brothers and sisters in Christ are being completely exterminated. Their churches are being barbarously ravaged and looted, their sacred objects profaned, their monuments destroyed. It is with pain that we call to mind the situation in Syria, Iraq and other countries of the Middle East, and the massive exodus of Christians from the land in which our faith was first disseminated and in which they have lived since the time of the Apostles, together with other religious communities.

9. We call upon the international community to act urgently in order to prevent the further expulsion of Christians from the Middle East. In raising our voice in defence of persecuted Christians, we wish to express our compassion for the suffering experienced by the faithful of other religious traditions who have also become victims of civil war, chaos and terrorist violence.

10. Thousands of victims have already been claimed in the violence in Syria and Iraq, which has left many other millions without a home or means of sustenance. We urge the international community to seek an end to the violence and terrorism and, at the same time, to contribute through dialogue to a swift return to civil peace. Large-scale humanitarian aid must be assured to the afflicted populations and to the many refugees seeking safety in neighbouring lands.

We call upon all those whose influence can be brought to bear upon the destiny of those kidnapped, including the Metropolitans of Aleppo, Paul and John Ibrahim, who were taken in April 2013, to make every effort to ensure their prompt liberation.

11. We lift our prayers to Christ, the Saviour of the world, asking for the return of peace in the Middle East, "the fruit of justice" (Is 32:17), so that fraternal co-existence among the various populations, Churches and religions may be strengthened, enabling refugees to return to their homes, wounds to be healed, and the souls of the slain innocent to rest in peace.

We address, in a fervent appeal, all the parts that may be involved in the conflicts to demonstrate goodwill and to take part in the negotiating table. At the same time, the international community must undertake every possible effort to end terrorism through common, joint and coordinated action. We call on all the countries involved in the struggle against terrorism to responsible and prudent action. We exhort all Christians and all believers of God to pray fervently to the providential Creator of the world to protect His

creation from destruction and not permit a new world war. In order to ensure a solid and enduring peace, specific efforts must be undertaken to rediscover the common values uniting us, based on the Gospel of our Lord Jesus Christ.

12. We bow before the martyrdom of those who, at the cost of their own lives, have given witness to the truth of the Gospel, preferring death to the denial of Christ. We believe that these martyrs of our times, who belong to various Churches but who are united by their shared suffering, are a pledge of the unity of Christians. It is to you who suffer for Christ's sake that the word of the Apostle is directed: "Beloved … rejoice to the extent that you share in the sufferings of Christ, so that when his glory is revealed you may also rejoice exultantly" (1 Pet 4:12-13).

13. Interreligious dialogue is indispensable in our disturbing times. Differences in the understanding of religious truths must not impede people of different faiths to live in peace and harmony. In our current context, religious leaders have the particular responsibility to educate their faithful in a spirit which is respectful of the convictions of those belonging to other religious traditions. Attempts to justify criminal acts with religious slogans are altogether unacceptable. No crime may be committed in God's name, "since God is not the God of disorder but of peace" (1 Cor 14:33).

14. In affirming the foremost value of religious freedom, we give thanks to God for the current unprecedented renewal of the Christian faith in Russia, as well as in many other countries of Eastern Europe, formerly dominated for decades by atheist regimes. Today, the chains of militant atheism have been broken and in many places Christians can now freely confess their faith. Thousands of new churches have been built over the last quarter of a century, as well as hundreds of monasteries and theological institutions. Christian communities undertake notable works in the fields of charitable aid and social development, providing diversified forms of assistance to the needy. Orthodox and Catholics often work side by side. Giving witness to the values of the Gospel they attest to the existence of the shared spiritual foundations of human co-existence.

15. At the same time, we are concerned about the situation in many countries in which Christians are increasingly confronted by restrictions to religious freedom, to the right to witness to one's convictions and to live in conformity with them. In particular, we observe that the transformation of some countries into secularized societies, estranged from all reference to God and to His truth, constitutes a grave threat to religious freedom. It is a source of concern for us that there is a current curtailment of the rights of Christians, if not their outright discrimination, when certain political forces, guided by an often very aggressive secularist ideology, seek to relegate them to the margins of public life.

16. The process of European integration, which began after centuries of blood-soaked conflicts, was welcomed by many with hope, as a guarantee of peace and security. Nonetheless, we invite vigilance against an integration that is devoid of respect for religious identities. While remaining open to the contribution of other religions to our civilization, it is our conviction that Europe must remain faithful to its Christian roots. We call upon Christians of Eastern and Western Europe to unite in their shared witness to Christ and the Gospel, so that Europe may preserve its soul, shaped by two thousand years of Christian tradition.

17. Our gaze is also directed to those facing serious difficulties, who live in extreme need and poverty while the material wealth of humanity increases. We cannot remain indifferent to the destinies of millions of migrants and refugees knocking on the doors of wealthy nations. The unrelenting consumerism of some more developed countries is gradually depleting the resources of our planet. The growing inequality in the distribution of material goods increases the feeling of the injustice of the international order that has emerged.

18. The Christian churches are called to defend the demands of justice, the respect for peoples' traditions, and an authentic solidarity towards all those who suffer. We Christians cannot forget that "God chose the foolish of the world to shame the wise, and God chose the lowly and despised of the world, those who count for nothing, to reduce to nothing those who are something, that no human being might boast before God" (1 Cor 1:27-29).

19. The family is the natural centre of human life and society. We are concerned about the crisis in the family in many countries. Orthodox and Catholics share the same conception of the family, and are called to witness that it is a path of holiness, testifying to the faithfulness of the spouses in their mutual interaction, to their openness to the procreation and rearing of their children, to solidarity between the generations and to respect for the weakest.

20. The family is based on marriage, an act of freely given and faithful love between a man and a woman. It is love that seals their union and teaches them to accept one another as a gift. Marriage is a school of love and faithfulness. We regret that other forms of cohabitation have been placed on the same level as this union, while the concept, consecrated in the biblical tradition, of paternity and maternity as the distinct vocation of man and woman in marriage is being banished from the public conscience.

21. We call on all to respect the inalienable right to life. Millions are denied the very right to be born into the world. The blood of the unborn cries out to God (cf. Gen 4:10).

The emergence of so-called euthanasia leads elderly people and the disabled begin to feel that they are a burden on their families and on society in general.

We are also concerned about the development of biomedical reproduction technology, as the manipulation of human life represents an attack on the foundations of human existence, created in the image of God. We believe that it is our duty to recall the immutability of Christian moral principles, based on respect for the dignity of the individual called into being according to the Creator's plan.

22. Today, in a particular way, we address young Christians. You, young people, have the task of not hiding your talent in the ground (cf. Mt 25:25), but of using all the abilities God has given you to confirm Christ's truth in the world, incarnating in your own lives the evangelical commandments of the love of God and of one's neighbour. Do not be afraid of going against the current, defending God's truth, to which contemporary secular norms are often far from conforming.

23. God loves each of you and expects you to be His disciples and apostles. Be the light of the world so that those around you may see your good deeds and glorify your heavenly Father (cf. Mt 5:14, 16). Raise your children in the Christian faith, transmitting to them the pearl of great price that is the faith (cf. Mt 13:46) you have received from your parents and forbears. Remember that "you have been purchased at a great price" (1 Cor 6:20), at the cost of the death on the cross of the Man-God Jesus Christ.

24. Orthodox and Catholics are united not only by the shared Tradition of the Church of the first millennium, but also by the mission to preach the Gospel of Christ in the world today. This mission entails mutual respect for members of the Christian communities and excludes any form of proselytism.

We are not competitors but brothers, and this concept must guide all our mutual actions as well as those directed to the outside world. We urge Catholics and Orthodox in all countries to learn to live together in peace and love, and to be "in harmony with one another" (Rm 15:5). Consequently, it cannot be accepted that disloyal means be used to incite believers to pass from one Church to another, denying them their religious freedom

and their traditions. We are called upon to put into practice the precept of the apostle Paul: "Thus I aspire to proclaim the gospel not where Christ has already been named, so that I do not build on another's foundation" (Rm 15:20).

25. It is our hope that our meeting may also contribute to reconciliation wherever tensions exist between Greek Catholics and Orthodox. It is today clear that the past method of "uniatism", understood as the union of one community to the other, separating it from its Church, is not the way to re-establish unity. Nonetheless, the ecclesial communities which emerged in these historical circumstances have the right to exist and to undertake all that is necessary to meet the spiritual needs of their faithful, while seeking to live in peace with their neighbours. Orthodox and Greek Catholics are in need of reconciliation and of mutually acceptable forms of co-existence.

26. We deplore the hostility in Ukraine that has already caused many victims, inflicted innumerable wounds on peaceful inhabitants and thrown society into a deep economic and humanitarian crisis. We invite all the parts involved in the conflict to prudence, to social solidarity and to action aimed at constructing peace. We invite our Churches in Ukraine to work towards social harmony, to refrain from taking part in the confrontation, and to not support any further development of the conflict.

27. It is our hope that the schism between the Orthodox faithful in Ukraine may be overcome through existing canonical norms, that all the Orthodox Christians of Ukraine may live in peace and harmony, and that the Catholic communities in the country may contribute to this, in such a way that our Christian brotherhood may become increasingly evident.

28. In the contemporary world, which is both multiform yet united by a shared destiny, Catholics and Orthodox are called to work together fraternally in proclaiming the Good News of salvation, to testify together to the moral dignity and authentic freedom of the person, "so that the world may believe" (Jn 17:21). This world, in which the spiritual pillars of human existence are progressively disappearing, awaits from us a compelling Christian witness in all spheres of personal and social life. Much of the future of humanity will depend on our capacity to give shared witness to the Spirit of truth in these difficult times.

29. May our bold witness to God's truth and to the Good News of salvation be sustained by the Man-God Jesus Christ, our Lord and Saviour, who strengthens us with the unfailing promise: "Do not be afraid any longer, little flock, for your Father is pleased to give you the kingdom" (Lk 12:32)!

Christ is the well-spring of joy and hope. Faith in Him transfigures human life, fills it with meaning. This is the conviction borne of the experience of all those to whom Peter refers in his words: "Once you were 'no people' but now you are God's people; you 'had not received mercy' but now you have received mercy" (1 Pet 2:10).

30. With grace-filled gratitude for the gift of mutual understanding manifested during our meeting, let us with hope turn to the Most Holy Mother of God, invoking her with the words of this ancient prayer: "We seek refuge under the protection of your mercy, Holy Mother of God". May the Blessed Virgin Mary, through her intercession, inspire fraternity in all those who venerate her, so that they may be reunited, in God's own time, in the peace and harmony of the one people of God, for the glory of the Most Holy and indivisible Trinity!

Pope Francis
Bishop of Rome

Patriarch Kirill
of Moscow and All Russia

Anexo de la nota verbal de fecha 31 de marzo de 2016 dirigida a la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos por la Misión Permanente de Colombia ante la Oficina de las Naciones Unidas y otras organizaciones internacionales en Ginebra

Nota diplomática de fecha 7 de marzo de 2016 dirigida a la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos por el Gobierno de Colombia

Tengo el honor de dirigirme a usted con el propósito de transmitir las observaciones de Colombia a la versión avanzada no editada del Informe de la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos sobre las actividades de la Oficina en Colombia durante el año 2015.

Colombia agradece el Informe y reconoce la importancia del mandato otorgado a la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos en Colombia, al tiempo que comparte la apreciación de la Oficina con respecto a los avances en las negociaciones entre el Gobierno de Colombia y las FARC-EP, que busca poner fin a cinco décadas de conflicto armado, cuya resolución contribuirá a mejorar el goce y la garantía de los derechos humanos en el país.

Mi Gobierno reconoce la valiosa tarea de la Oficina en relación con el apoyo brindado para la plena vigencia de los derechos humanos en Colombia, y considerando que el Acuerdo prevé que la Oficina informe de manera analítica y pormenorizada sobre sus actividades así como sobre la situación de derechos humanos en el país, el Gobierno de Colombia espera que en los próximos informes se reporten con mayor amplitud y profundidad las actividades desarrolladas en cumplimiento de sus funciones, incluyendo aquellas de asesoría a las instituciones nacionales encargadas de la promoción y protección de los derechos humanos y a representantes de la sociedad civil, así como las actividades desarrolladas para dar seguimiento al avance de recomendaciones formuladas en años anteriores y reiteradas en ulteriores informes.

El Gobierno de Colombia apreciaría que la presente Nota y el documento adjunto (véase el apéndice) se publiquen como anexo del Informe de la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos sobre las actividades de la Oficina en Colombia durante el año 2015, de conformidad con lo estipulado en el Acuerdo relativo al establecimiento de la Oficina en Colombia.

El Gobierno de Colombia espera que mediante el diálogo permanente y periódico se profundice la reflexión conjunta sobre las actividades de la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos en Colombia en desarrollo de su mandato y, sobre los avances logrados en el goce y garantía de los derechos humanos a partir de su presencia en el país, de manera que la aplicación del Acuerdo se vea enriquecida.

(Firmado) Mónica **Fonseca Jaramillo**
Directora de Derechos Humanos y Derecho Internacional Humanitario

Apéndice

Observaciones del Estado de Colombia al informe anual del Alto Comisionado de las Naciones Unidas para los Derechos Humanos sobre la situación de los derechos humanos en Colombia

I. Observaciones generales

El Gobierno de Colombia agradece el Informe del Alto Comisionado de las Naciones Unidas para los Derechos Humanos para la vigencia de 2015 y reitera su reconocimiento a la importancia de su mandato para la promoción y protección de los derechos humanos.

Dada la importancia del Informe en el contexto del Acuerdo relativo al establecimiento y mandato de la Oficina en Colombia, el Gobierno espera que se siga afinando el proceso para su presentación, de manera que las instancias competentes del Estado tengan la oportunidad de transmitir observaciones que aseguren la precisión y contextualización de la información plasmada en el mismo, por el conducto diplomático.

En este sentido, se encuentra que, como se ha señalado en años anteriores, persisten afirmaciones sin soportes fácticos, que dan lugar a generalizaciones, opiniones subjetivas, y de mera percepción. También se observa que el documento contiene información no confirmada, o por comprobar, cuya inclusión en estos informes que gozan del reconocimiento de la comunidad internacional podría resultar poco prudente. Considerando que el Informe cobra gran relevancia frente a otros órganos de Naciones Unidas y en el ámbito interno, en oportunidades anteriores, sus afirmaciones han sido retomadas, difundidas y socializadas en otros documentos, por lo que es importante asegurar que los hechos relacionados se limiten a situaciones totalmente contrastadas y comprobadas.

Contrario a lo manifestado en el informe, el Estado considera que el nivel de interlocución con las instancias internacionales, particularmente las de Derechos Humanos, es excelente manteniéndose un dialogo permanente, franco y constructivo.

En el mismo sentido, preocupan conceptualizaciones que permean todo el informe, con respecto a la existencia de una "cultura institucional contrainsurgente".

Es una calificación muy seria que pareciese surgir de una postura subjetiva, sin que se señale de manera clara su sentido y alcance, que sin duda no contribuye para nada a generar una cultura de paz y, confianza en el país.

Asimismo, frente a lo que reiteradamente se afirma respecto a los problemas de coordinación y cooperación, es menester señalar que estas aseveraciones ignoran los esfuerzos del Estado para adaptar su andamiaje institucional a un escenario de superación del conflicto y responder a los desafíos estructurales en derechos humanos, a la vez que siembra desconfianza frente a la institucionalidad del país.

Considerando que el Acuerdo pre : que la Oficina informe de manera analítica y pormenorizada sobre sus actividades así como sobre la situación de derechos humanos en el país, el Gobierno de Colombia espera que en los próximos informes se reporten con mayor amplitud y profundidad las actividades desarrolladas en cumplimiento de sus funciones, incluyendo aquellas de asesoría a las instituciones nacionales encargadas de la promoción y protección de los derechos humanos y a representantes de la sociedad civil, así como las actividades desarrolladas para dar seguimiento al avance de recomendaciones formuladas en años anteriores y reiteradas en ulteriores informes.

El Gobierno de Colombia considera que si bien el Informe debe dar cuenta de los retos que enfrenta el Estado en materia de derechos humanos, resulta igualmente provechoso registrar los esfuerzos y logros de los distintos órganos de Estado con datos y cifras comparables que permitan medir los avances y/o retrocesos. Lo anterior, contribuiría a formular recomendaciones que construyan sobre los logros y coadyuven a superar los desafíos identificados en el período reportado. Adicionalmente, ilustraría el progreso registrado en la promoción y protección de los Derechos Humanos en el territorio nacional y la manera como la Oficina ha contribuido a ello con su presencia en el país.

Por último, el Gobierno de Colombia espera que mediante el diálogo permanente y periódico se profundice la reflexión conjunta sobre las actividades de la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos en Colombia en desarrollo de su mandato y sobre los avances logrados en el goce y garantía de los derechos humanos a partir de su presencia en el país, de manera que la aplicación del Acuerdo se vea enriquecida.

II. Observaciones y comentarios puntuales

Siguiendo la misma estructura del Informe, el Gobierno de Colombia se permite hacer las siguientes precisiones:

A. Introducción

Párrafo 4

Señala que "la sostenibilidad de la paz requerirá que Colombia supere las enormes brechas en el disfrute de los derechos humanos entre las zonas rurales y urbanas, entre hombres y mujeres y entre grupos poblacionales y étnicos" y alude a problemas estructurales de derechos humanos. No obstante, no se hace referencia al CONPES 3850 de noviembre de 2015 que da vida al Fondo Colombia en Paz, el cual reconoce la existencia de estas brechas y detalla el impacto diferenciado del conflicto en el territorio, identificando geoespacialmente las zonas mayormente afectadas y destacando el impacto desproporcionado en las zonas rurales. En consecuencia, se constituye el Fondo precisamente para mejorar la operación y financiación de iniciativas para la paz, mejorar la focalización geográfica y la priorización temática de inversiones públicas, privadas y de cooperación internacional y fortalecer el monitoreo, reporte y verificación del impacto de las acciones e inversiones realizadas como vías para superar estas brechas.

Párrafo 5

Este párrafo afirma que "se registraron algunas dificultades en la cooperación con los mecanismos internacionales sobre la situación del país, como los procedimientos especiales del Consejo de Derechos Humanos, la Corte Penal Internacional y la Oficina en Colombia", aseveración que introduce una generalización negativa e inexacta, toda vez que no representa el excelente nivel de interlocución y cooperación que el Estado, en todos sus niveles, mantiene con las instancias internacionales mencionadas. En particular la Oficina, ha contado con todas las facilidades y cooperación para facilitar el cumplimiento de su mandato consagrado en el Acuerdo de 1996 y en los acuerdos y prórrogas posteriores. De no aportarse evidencia que apoye esta afirmación se considera conveniente eliminar dicha afirmación.

B. Proceso de paz y víctimas del conflicto armado

Párrafos 9, 11, 12, 13, 14, 17 y 20

En estos párrafos y otros a lo largo del Informe, se reiteran afirmaciones como "la Oficina realiza incidencia para superar los grandes retos", "la Oficina está cooperando con…", "La Oficina apoya…", "la Oficina trabaja para superar los desafíos…", "la Oficina desarrolla una contribución pedagógica", entre otras. Como se mencionó en las observaciones generales, Colombia entiende que el Informe debe dar cuenta pormenorizada de las actividades de la Oficina en Colombia y se observa que en estos párrafos y otros párrafos no se detalla en qué consisten las labores de apoyo, cooperación y/o asesoría. En el mismo sentido, al omitir detalles sobre las actividades realizadas por la Oficina y aquellas desarrolladas por los organismos del Estado se puede estar introduciendo la idea errónea de que la Oficina desarrolla labores propias del Estado.

Párrafo 16

Con respecto a las cifras sobre víctimas de minas antipersonal y otros artefactos registradas en el párrafo se solicita corregirlas en el siguiente sentido:

> "Durante el 2015, el Gobierno reportó 222 víctimas de minas y otros artefactos, de este universo 156 corresponden a miembros de la fuerza pública, 142 heridos y 14 fallecidos, en tanto 66 fueron víctimas civiles, 49 heridos y 17 fallecidos".

Si bien la cifra continúa siendo alta, es importante que el párrafo mencione que el número de víctimas ha venido disminuyendo de manera sostenida en los últimos diez años gracias a la labor adelantada por el Estado en términos de desminado, educación en el riesgo de minas y fortalecimiento de seguridad en algunas zonas del territorio nacional. De acuerdo con la Dirección de Acción de Minas Antipersonal – DAICMA, en 2004 se reportaron 897 víctimas, cifra que comparada con las 222 reportadas en 2015 representaría una disminución del 24,5%. Una aclaración de esta naturaleza ayudaría a mostrar el progreso que ha venido registrando el país en esta materia.

Párrafo 17

A partir del ejemplo del indulto ofrecido a 30 miembros de las FARC condenados por rebelión se señala que "…La implementación reveló problemas de coordinación institucional que deben ser superados". Colombia considera que esta afirmación es incorrecta y solicita que se modifique. La medida anunciada por el Gobierno Nacional exigió que las diferentes entidades involucradas adelantaran un plan metodológico de diseño e implementación de la medida anunciada, con todas las actuaciones jurídicas, administrativas y logísticas que demanda el indulto de 30 personas privadas de la libertad. Debe subrayarse que este tipo de medidas requieren gran rigor en la revisión de los procedimientos, en especial de la situación jurídica de los beneficiarios lo que demanda tiempo y articulación con la rama judicial. De manera que, al contrario de la afirmación plasmada en el Informe, el proceso evidenció que, a través de las instituciones existentes el Estado se encuentra preparado para implementar las medidas que se dispongan como resultado de los acuerdos de las conversaciones de paz.

Como se mencionó en las observaciones generales, este tipo de aserciones ignoran los esfuerzos del Estado por adaptar su andamiaje institucional a un escenario de superación del conflicto y responder a los desafíos estructurales en derechos humanos, a la vez que siembra desconfianza frente a la institucionalidad del país.

Párrafo 26

La afirmación, incluida al final de este párrafo: "Los riesgos para las personas desmovilizadas son conocidos en la historia de Colombia", desconoce los resultados de la Agencia Colombiana para la Reintegración, que es una agencia constructora de paz con 12 años de experiencia en la generación de herramientas para que las personas en proceso de reintegración puedan superar su situación de vulnerabilidad para el ejercicio autónomo de su ciudadanía, la cual atiende ciudadanos en proceso de reintegración con distintos contextos, antecedentes y características y cuenta con 34 oficinas a nivel regional.

La ACR implementa un proceso integral con esquemas de evaluación y seguimiento, donde profesionales especializados apoyan a ciudadanos en proceso de reintegración para garantizar la reconciliación y la no repetición de conductas violentas. El proceso está enfocado en la recomposición de las siguientes dimensiones de las personas: Personal; Familiar; Salud; Educativo; Ciudadanía; Seguridad; Productiva; y Habitabilidad.

A septiembre de 2015, en Colombia se habían desmovilizado más de 57 mil personas, de los cuales el 84,3% ingresó al Programa de atención integral de la Agencia. De este total, más de 10 mil personas culminaron a satisfacción el proceso de reintegración y tan solo el 18% de los ingresados salieron el proceso.

C. Construcción de la paz: Oportunidad y riesgos para los derechos humanos

Párrafo 34

Resulta imprecisa la afirmación: "Debido a las afectaciones a la salud derivadas del uso de glifosato en la erradicación de cultivos, constatadas por la Organización Mundial de la Salud…", toda vez que la decisión del Consejo Nacional de Estupefacientes a la que hace referencia el párrafo se tomó en aplicación del principio constitucional de precaución. La decisión se hizo efectiva mediante Resolución núm. 1254 del 30 de septiembre de 2015, expedida por la Autoridad Nacional de Licencias Ambientales (ANLA), quien tiene la competencia para realizar el seguimiento y la evaluación técnica al Plan de Manejo Ambiental (PMA), revisar los estudios técnicos allegados por el Ministerio de Salud y Protección Social y ordenar la suspensión del uso del herbicida. Por lo anterior, se solicita precisar la razón por la cual el Consejo Nacional de Estupefacientes, adoptó esta decisión.

Párrafo 37

Resulta infortunada la conceptualización que se hace en este párrafo con respecto a la existencia de una "cultura institucional contrainsurgente" que, de acuerdo con el Informe, contribuye a "estigmatizar y desproteger a los defensores de derechos humanos y líderes sociales, étnicos y políticos". Esta aseveración descalifica la acción de las fuerzas del orden y los órganos de control y judiciales sin ser documentada con evidencias y, al mismo tiempo, desconoce el compromiso y los esfuerzos del Estado y su institucionalidad en torno a la garantía de los derechos humanos de todos los sectores y grupos poblacionales.

Si bien se reconoce la persistencia de retos para la superación de los factores que socavan la credibilidad institucional, es importante subrayar que el Gobierno Nacional ha rechazado pública y vehementemente las violaciones a derechos humanos cometidas contra defensores y defensoras en el marco de los actos públicos de reconocimiento a su labor. A la fecha, se han realizado nueve actos de reconocimiento en las ciudades de Popayán, Barranquilla, Bogotá D.C., Bucaramanga, Cúcuta, Pereira, Medellín, Barrancabermeja y Quibdó, en los cuales se ha contado con el acompañamiento de la Misión de Apoyo de la Organización de Estados Americanos, el PNUD y la OACNUDH.

Al igual que en otros párrafos contenidos en el informe, la introducción de este concepto, conduce al lector a conclusiones no ajustadas a la realidad, toda vez que generaliza, estigmatiza y genera desconfianza hacia las instituciones y el trabajo que estas realizan y por ende, no contribuye a generar una cultura de paz y respeto a los derechos humanos en el país.

Párrafo 40

La inclusión de opiniones subjetivas sin ningún sustento, como la registrada en la última parte de este párrafo: "Además de la escasa presencia del Estado en varias zonas, se subraya como doble reto, la débil capacidad institucional, la corrupción y la cooptación ilícita de autoridades locales y la deficiente calidad de resultados, falta de veeduría y el clientelismo en la implementación de políticas desde Bogotá", minan la confianza frente a la institucionalidad nacional, por lo que se solicita retirar tales afirmaciones de este párrafo.

Párrafo 45

Al afirmar que "los derechos humanos no fueron adecuadamente integrados en los manuales de inteligencia", el Informe desconoce que al interior de las Fuerzas Militares y de Policía se ha adelantado un proceso de adecuación de los manuales y la doctrina de inteligencia y contrainteligencia, en observancia de los fines y límites establecidos en la ley. Lo anterior, ha conllevado a la derogación y actualización de diferentes instructivos atendiendo los preceptos en materia de DDHH y DIH por lo que dicha afirmación no es correcta.

Párrafo 46

El Informe falla en hacer un reconocimiento explícito de los avances fruto del trabajo conjunto entre el Ministerio de Defensa Nacional y la Defensoría del Pueblo, con el fin de establecer una hoja de ruta para solucionar las "detenciones arbitrarias con fines de reclutamiento" y de fijar un procedimiento que garantice los derechos humanos de los ciudadanos. Este trabajo culminó con la expedición de dos documentos: (i) la Directiva núm. 0280 sobre "Instrucciones y recomendaciones para la Compelación Soldados Regulares, Bachilleres y Campesinos y Gestión Solicitudes Objetores de Conciencia"; y (ii) el "Protocolo de Atención y Orientación para la definición de la situación militar de ciudadanos, que acuden a la Defensoría del Pueblo" de enero y febrero de 2015, respectivamente. Es desacertado afirmar que estas prácticas "habían sido política institucional".

Párrafo 47

Es incorrecta la afirmación "Ponen en entredicho la coherencia gubernamental hechos como la falta de presencia visible de altos mandos militares en el acto público de reconocimiento de responsabilidad por la operación del Palacio de Justicia", puesto que si se contó con la representación de las Fuerzas Militares en esa ceremonia, la cual además de la presencia del Señor Presidente de la República, quien es el Comandante Supremo de las Fuerzas Armadas de la República, estuvo en cabeza del señor Mayor General del Aire Juan Guillermo García Serna, Subjefe de Estado Mayor Conjunto de Fortalecimiento Jurídico Institucional y máximo responsable de los temas de Derechos Humanos y Derecho Internacional Humanitario de las Fuerzas, además de otros miembros de las Fuerzas y funcionarios del Ministerio de Defensa Nacional.

El acto público de reconocimiento de responsabilidad internacional del Estado por los hechos del caso Rodríguez Vera y otros, relacionados con los desaparecidos del Palacio de Justicia, fue presidido por el Presidente de la República, Juan Manuel Santos, quien afirmó: "como Presidente de la República y Jefe de Estado, quiero cumplir (…) con una de

las medidas de reparación ordenadas en la sentencia de la Corte Interamericana de Derechos Humanos en el caso conocido como Rodríguez Vera y otros, sobre desaparecidos del Palacio de Justicia. Hoy reconozco la responsabilidad del Estado colombiano y pido perdón". En el mismo sentido, vale la pena señalar que el Ministerio de Defensa, en el marco de diferentes decisiones judiciales, ha efectuado distintos actos de reconocimiento de responsabilidad.

Párrafo 52

Se considera apresurada la conclusión de la Oficina en relación con el acceso necesario a los archivos sobre presuntas violaciones de derechos humanos al afirmar que "las leyes y prácticas existentes en Colombia no garantizan el acceso necesario". No se toma en consideración el trabajo del Gobierno Nacional para hacer efectivo el derecho de acceso a la información pública, y las regulaciones en materia de excepcionalidad a la publicidad de información.

Colombia cuenta con la Ley 1712 de 2014 sobre transparencia y derecho de acceso a la información pública, cuyo artículo 19 hace referencia al tipo de información cuyo acceso puede ser rechazado o denegado teniendo en cuenta el daño a los intereses públicos. Adicionalmente, en virtud del artículo 30 de la Ley 1621 de 2013 se creó la Comisión Asesora de Depuración de Datos y Archivos de Inteligencia y Contrainteligencia, en la que participa un representante de la sociedad civil. Adicionalmente, la Dirección de Archivos de los Derechos Humanos del Centro Nacional de Memoria Histórica, en cumplimiento de las funciones asignadas por la Ley de Víctimas y Restitución de Tierras, ha avanzado desde 2013, de manera participativa, en la elaboración de la Política Pública de Archivos sobre Graves Violaciones a los Derechos Humanos e Infracciones al DIH, Memoria Histórica y Conflicto Armado en Colombia.

Resulta igualmente incorrecta la afirmación "No existen facultades presidenciales o de otras entidades estatales independientes para realizar el levantamiento general de la reserva de archivos de derechos humanos, teniendo en cuenta las debidas consideraciones de seguridad individual" toda vez que el parágrafo 1° del artículo 33 de la Ley 1621 de 2013, faculta al Presidente para levantar la reserva legal siempre que "considere que el levantamiento de la reserva contribuirá al interés general y no constituirá una amenaza contra la vigencia del régimen democrático, la seguridad, o defensa nacional, ni la integridad de los medios, métodos y fuentes."

Por todo lo anterior, se solicita la supresión de este párrafo.

Párrafo 55

En el Informe se concluye que "… la ausencia de logros en estas áreas se debe a fallas en la estrategia…". La política de priorización busca que la Fiscalía General de la Nación (FGN) maneje su carga de trabajo de manera más estratégica. Esta política fue formulada inicialmente en la Directiva 001 de octubre de 2012 y tras más de un año de implementación, sus efectos fueron evaluados y su contenido fue ajustado y complementado con el fin de alinear la política con los decretos de modernización y aumentar su penetración en las actividades misionales de todas las direcciones.

En los últimos cuatro años, la FGN priorizó la investigación integral y en contexto de las violaciones de derechos humanos atribuibles a miembros de la fuerza pública. Esta priorización estuvo a cargo de la Dirección Nacional de Fiscalías Especializadas en Derechos Humanos y Derecho Internacional Humanitario (DNFDH y DIH) e incluyó el trabajo articulado de las direcciones seccionales y la Unidad de Fiscalías Delegadas ante la Corte Suprema de Justicia. Adicionalmente, en virtud de la Directiva 001 de 2012, en la Dirección de Derechos Humanos y DIH se plantearon estrategias específicas para la

caracterización del fenómeno de ejecuciones extrajudiciales y la identificación de metodologías tendientes a contribuir en el avance de las investigaciones.

De otra parte, debe señalarse que, en beneficio del fortalecimiento de las instituciones, tanto los avances cómo los retos y desafíos alcanzados por las mismas, deben ser asignados a las instituciones y no a los funcionarios. De esta manera, no es constructivo el planteamiento de la Oficina al señalar que "los avances aislados [en materia de investigaciones de la Fiscalía] obedecieron más al compromiso individual de funcionarios que a la aplicación de políticas institucionales".

Párrafo 56

Si bien es cierto que algunos miembros de la Fuerza Pública han incurrido en conductas violatorias de los derechos humanos como es el caso de las ejecuciones extrajudiciales, investigadas y perseguidas en ámbito nacional mediante los delitos de homicidio en persona protegida y homicidio agravado, también lo es que ésta no es, bajo ninguna circunstancia, una política de Estado. Por el contrario, para el Gobierno Nacional este comportamiento de algunos de sus agentes por fuera del marco de la Constitución, de la ley y de las políticas nacionales, es absolutamente inaceptable. Razón por la cual, el Gobierno Nacional ha tomado medidas contundentes con énfasis en la judicialización de quienes incurrieron en actos de este tipo y la prevención de hechos futuros de esa naturaleza.

Párrafo 58

Se afirma que "maniobras dilatorias de la defensa y laxitud de jueces impidieron el avance de varios procesos penales por homicidios cometidos por miembros de la fuerza pública", aseveración que nuevamente constituye una generalización audaz con respecto a la procuración de justicia en estos casos específicos. Si bien se ha reconocido que algunos retrasos en los procesos responden al ejercicio de maniobras dilatorias, también existen pronunciamientos de la Corte Constitucional en los que se señala que acudir a los recursos dispuestos por ley para la defensa en un proceso judicial, no puede entenderse como maniobras dilatorias dentro de un proceso.

Por su parte, con el objeto de que la respuesta del aparato judicial sea oportuna y garantizar la celeridad en el trámite de procesos adelantados por hechos presuntamente constitutivos de ejecuciones extrajudiciales, en el año 2015, la Fiscalía General de la Nación elevó una solicitud a la Sala Administrativa del Consejo Superior de la Judicatura, ente encargado de integrar estrategias de distribución de despachos judiciales para la rápida y eficaz administración de justicia, con el fin de que considerara la posibilidad de disponer de jueces penales del circuito especializados que aborden de manera exclusiva dicha temática.

Párrafo 59

El Informe asegura que "a pesar de asumir múltiples compromisos públicos desde el inicio de su gestión, el Fiscal General no avanzó en las investigaciones por ejecuciones extrajudiciales contra oficiales de alto rango sino hasta finales de 2015…" lo que resulta impreciso. Por el contrario, no solamente ha aumentado el número de investigaciones por esta clase de hechos, sino también que se han impulsado las actuaciones y adoptado las decisiones que se han estimado pertinentes.

El número de investigaciones contra Generales de la República por presuntas ejecuciones extrajudiciales por hechos ocurridos en el período comprendido entre 2002 y 2008, aumentó significativamente durante los años 2013 y 2014: pasando de dos a quince indagaciones. Por ello, con el objeto de hacer más eficiente y eficaz la labor de la Fiscalía, a

finales de 2014 se destacaron tres Fiscales Delegados ante la Corte Suprema de Justicia (Fiscales 3°, 4° y 8°), para atender esta temática. Así mismo, en el año 2015 se creó un grupo interdisciplinario conformado por Fiscales Delegados, analistas y servidores de policía judicial (31 personas), dedicado únicamente a colaborar en la investigación de estos casos.

Párrafo 60

Colombia considera infortunada la presunción que hace el Informe al señalar que "el Estado incumple sus obligaciones internacionales cuando no actúa en materia penal, disciplinaria, operacional o de mando y control para asegurar la no repetición". Al respecto, es menester señalar que se desconocen los ingentes esfuerzos tanto humanos como presupuestales de la Fiscalía General para avanzar en las investigaciones.

Por su parte, la Unidad para la Atención y la Reparación de las Víctimas promovió durante 2015 la articulación con la Fiscalía General de la Nación con el fin de dar celeridad al acceso de las víctimas a la justicia y buscar sanciones a los responsables, en el marco de la Ley. Dentro de esta articulación se abordaron cinco líneas de trabajo: 1) Justicia y paz; 2) Desaparición forzada; 3) Reparación colectiva; 4) Sistemas internacionales; 5) Persecución de bienes. Para ello, la Fiscalía General de la Nación expidió la resolución de articulación No.2720 de 2015, la cual define los canales de comunicación para desarrollar el trabajo conjunto entre las entidades y se dé respuesta a las necesidades de la población víctima, especialmente, para hechos como la desaparición forzada.

Párrafo 61

Con respecto a la preocupación manifestada por la Oficina, sobre las reformas de la justicia penal militar y policial, debe subrayarse que en febrero de 2016, la Corte Constitucional mediante sentencia C-084 de 2016 declaró exequible la reforma introducida al artículo 221 de la Constitución Política mediante el Acto Legislativo 01 del 2015. Para la Corte en la investigación y juzgamiento de las conductas punibles de los miembros de la Fuerza Pública, en relación con un conflicto armado o un enfrentamiento que reúna las condiciones objetivas del Derecho Internacional Humanitario, deben aplicarse las normas y principios de éste, sin que ello excluya la aplicación complementaria de los mandatos del derecho internacional de los derechos humanos.

La Corte consideró que la aplicación del Derecho Internacional Humanitario no va en detrimento del respeto de los Derechos Humanos y por ende su incorporación en la Constitución Política de Colombia tiene como único fundamento la necesidad de un marco jurídico claro para la investigación y juzgamiento de los miembros de la Fuerza Pública, lo cual es acorde con el bloque de constitucionalidad, es decir con todos los tratados en materia de DIH que lo conforman.

En lo que corresponde a la Ley 1765 de 2015, no se modifican los criterios constitucionales de distribución de competencias establecidos en el artículo 221 de la constitución política de Colombia. El inciso primero del artículo 221 de la Constitución Política se mantiene incólume, y conserva las dos condiciones concurrentes que se requieren para fijar la competencia de la Justicia Penal Militar y Policial. Tales condiciones son: 1) que la persona procesada sea miembro de la Fuerza Pública en servicio activo, lo que conocemos como el criterio subjetivo, y 2) que el delito en cuestión tenga "relación con el mismo servicio", lo que conocemos como el criterio objetivo. Esta Ley se adoptó para dar cumplimiento legal de desarrollar el Sistema Penal Oral Acusatorio conforme a la obligación establecida en la Ley 1407 de 2010, declarada constitucional por la Corte Constitucional.

De conformidad con lo anterior, la información incluida en el párrafo pierde vigencia. Por tanto se solicita retirarla.

Párrafo 67

El Informe reconoce la labor de la UARIV pero afirma que "su mandato, esfuerzos y logros no pueden reemplazar la respuesta articulada estatal para generar los cambios requeridos en zonas marginadas en materia de DESC". Al respecto, se debe señalar que las medidas de reparación tienen su origen en la obligación de reparar y no en la orientación a la garantía de los derechos económicos, sociales y culturales; estos dos propósitos se amalgaman cuando las acciones de grupos armados han afectado en específico el acceso a estos derechos, o han generado mayor distancia para la garantía de los mismos. Frente a esto, la Unidad ha insistido en la concurrencia de los diversos programas que pueden responder a los dos propósitos priorizando, en lo individual, la garantía de derechos sociales antes del inicio de la etapa de la reparación y en lo colectivo, incorporar medidas sociales básicas que la comunidad reivindica como parte de los daños ocurridos como consecuencia de los hechos. La Unidad implementa acciones complementarias respecto de diferentes componentes de la reparación como medidas de satisfacción y rehabilitación, las cuales se implementan con víctimas individuales quienes manifiestan estar interesadas en participar.

No obstante, la afirmación de la Oficina desconoce que es el trabajo de las entidades que componen el Sistema Nacional de Atención y Reparación a las Víctimas (SNARIV), el que resulta en un avance en la garantía de los DESC para la población víctima.

Según la Encuesta de Goce Efectivo de Derechos realizada por el Gobierno en Colombia 2014 se evidencia avances en los indicadores de varios derechos de las víctimas de desplazamiento respecto a mediciones anteriores. El Gobierno es consciente de los retos que persisten y trabaja para su superación. En relación con el componente de salud el ejercicio comparativo realizado por la Unidad entre las mediciones 2010 y la EGED 2013-2014 permitió evidenciar que se observaron las condiciones para la superación de falencias y un avance en la aplicación. Por otra parte, la afiliación al Sistema General de Seguridad Social en Salud de la población desplazada aumentó en 5 puntos porcentuales durante los últimos 4 años, al pasar del 88,1% en la medición realizada en 2010 a 93,2% en la medición actual.

Respecto a los indicadores sobre el derecho a la alimentación, y con base en el mismo ejercicio comparativo, se logró establecer que el 90,3% de los hogares victimas de desplazamiento forzado se encontraba en la categoría "consumo aceptable" en el año 2010; mientras que esa misma categoría dio como resultado el 93,5% de los hogares en el año 2014, lo cual representa un aumento de 3 puntos porcentuales en los últimos 4 años. En resumen, el resultado obtenido en la actual medición evidencia un mejoramiento en las condiciones alimentarias de los hogares víctimas de desplazamiento forzado.

En materia de educación fue evidente la corrección de falencias relacionadas con: i) los problemas de cobertura y atención idónea en el servicio; ii) la flexibilización como garantía primordial de la permanencia, atendiendo a las particularidades y las necesidades de esta población; y iii) el fortalecimiento e implementación en los instrumentos y sistemas de información. Por otra parte, los resultados de la medición de la EGED sostienen que el 87,8% de niños, niñas y adolescentes entre 5 y 17 asisten a alguno de los niveles de educación preescolar, básica o media, mientras que en el 2010 dicho porcentaje fue de 86,9%, lo cual representa un aumento porcentual de 1,9 puntos, presentando un avance sostenido en la garantía en el goce efectivo del derecho a la educación.

Por otra parte, la reformulación integral de la política pública de vivienda urbana contribuyó significativamente en el cumplimiento de las órdenes contempladas en la

sentencia T-025 de 2004 y sus autos de seguimiento. Lo anterior debido a que a partir de la expedición de la Ley 1537 de 2012, se cambió el modelo de asignación de subsidios familiares de vivienda en dinero por aquel en especie, figura que asegura un acceso efectivo a las soluciones de vivienda por parte de los hogares víctimas de desplazamiento forzado. La Encuesta de Goce Efectivo de Derechos señala que el indicador de vivienda digna se ubica en 19,5%, siendo el indicador más rezagado el de la seguridad jurídica, pero es claro que por temporalidades en su aplicación la encuesta no pudo reflejar el impacto total del Programa de Vivienda Gratuita, dado que si ejecución comenzó en el año 2012 y la entrega de viviendas se realizó especialmente en el período 2014-2015. Vale la pena resaltar que el programa contempló inicialmente que el 50% de los recursos estaban destinados a la entrega de vivienda gratuita para hogares víctimas de desplazamiento forzado y actualmente este porcentaje superó el 65%.

Párrafo 69

El Informe menciona que "la Oficina está haciendo incidencia en favor de re-conceptualizar la respuesta estatal para mejorar la articulación nación-territorio y generar coherencia entre planes de desarrollo, provisión de servicios básicos relacionado con derechos como salud y educación y atención y reparación a víctimas". Dado el amplio alcance de esta afirmación y la carencia de detalles sobre las actividades desarrolladas por la Oficina en esta materia, el Gobierno de Colombia agradecería que la Oficina informe de manera detallada de qué manera se da tal incidencia.

Párrafo 70

Con el ánimo de hacer precisión frente a las cifras incluidas en este párrafo, se solicita registrar la información, así:

Al finalizar la vigencia 2015, la Unidad de Restitución tiene 87.119 solicitudes de inscripción en el RTDAF, de las cuales se intervinieron 42.325 (equivalentes al 49% del total de solicitudes recibidas), 30.593 cuentan con trámite administrativo finalizado (73% de las solicitudes intervenidas), 11.374 casos en demanda y 3.160 con sentencia que benefician a más de 20.000 personas. En ruta étnica, hay 23 casos con demanda y 2 sentencias proferidas por los despachos especializados. Aunque el 51% de las solicitudes se encuentran en zonas no microfocalizadas, es de reconocer que gracias al trabajo mancomunado y decidido entre la Unidad de Restitución de Tierras y el sector defensa se logró finalizar el trámite de poco más de 16 mil reclamaciones; 18% del total, para la vigencia 2015, en donde la apertura de microzonas aumentó en un 229%.

Párrafo 72

Es importante aclarar que son los Jueces y Magistrados de Restitución de Tierras los que deben, dentro del marco de sus competencias y en su ejercicio de interpretación, distinguir entre ocupantes de buena o mala fe. Se sugiere eliminar la frase "la adopción, por parte de la Unidad de Restitución de Tierras de un reglamento para la atención a 'segundos ocupantes' no es vinculante para los jueces" toda vez que la misma menoscaba el esfuerzo de la Unidad de Restitución de Tierras de crear un mecanismo que permita dar solución a la problemática de los segundos ocupantes. Aunque el Acuerdo 021 no es vinculante para los jueces, en algunos casos los jueces lo están reconociendo e implementando las medidas dispuestas en dicho acuerdo.

Párrafo 78

Si bien no se desconoce la problemática de la población indígena Wayuu en la Guajira, en este párrafo el Informe desconoce los esfuerzos que adelanta el Gobierno Nacional para solucionarlos.

D. Desafíos de derechos humanos para una paz equitativa y sostenible

Párrafo 80

Es necesario corregir las cifras consignadas en el Informe de acuerdo con los datos ofrecidos por el Programa somos Defensores, avaladas por la Fiscalía General de la Nación, así: durante 2015 se identificaron 37 casos de homicidios de defensores de derechos humanos. Estos casos ya se encuentran judicializados con actividad investigativa e impulso procesal. De ellos 7 se encuentran en etapa de juicio, 3 en investigación y uno con sentencia condenatoria por aceptación de cargos.

Colombia reconoce la importante labor que realizan las defensoras y defensores de derechos humanos, y es consciente de que la protección, frente a las diversas denuncias que éstos formulan, incluye adelantar investigaciones completas y eficaces que permitan establecer la verdad de lo acaecido, y concluir con la judicialización de quienes cometen este tipo de delitos y de lograr su comparecencia ante los tribunales competentes, atendiendo el material probatorio recopilado durante la investigación.

En lo transcurrido del año 2015 como estrategia de respuesta a las agresiones contra Defensores de DDHH, mediante Resolución 0249 del 19 de febrero de 2015 la Fiscalía creó el Grupo de Tareas Especiales para la investigación de conductas de Amenazas a través de medios tecnológicos contra miembro de organización sindical, defensor de derechos humanos, periodista, servidor público perteneciente a la rama judicial o al Ministerio Público o a sus familiares y, el 31 de agosto de 2015 con Resolución 1783 se creó el Grupo de Tareas Especiales para priorizar graves violaciones de Amenazas contra Defensoras y Defensores de Derechos Humanos con el fin de investigar y lograr la judicialización efectiva de:

- Homicidios, tentativas de homicidios y amenazas contra líderes indígenas y afrocolombianos que adelantan actividades relacionadas con la defensa de los derechos y territorio de comunidades, así como otras conductas relacionadas.
- Homicidios, tentativas de homicidios y amenazas de reclamantes y funcionarios públicos, entre otros agentes relacionados con procesos de restitución de tierras.
- Amenazas colectivas a defensoras y defensores de derechos humanos.

El Grupo para la investigación está conformado por tres fiscales adscritos a la Dirección Nacional de Seccionales y Seguridad Ciudadana, un Fiscal Especializado de la Dirección contra el Crimen Organizado y un Fiscal Especializado de la Dirección Nacional de Derechos Humanos y Derecho Internacional Humanitario, así como tres investigadores de la Sección de Análisis Criminal del CTI y 3 investigadores de la Dirección Nacional de Policía Judicial Especializada. De otra parte, la Dirección Nacional de Seccionales y de Seguridad Ciudadana ha destacado algunos fiscales para la investigación y judicialización de casos sobre agresiones a defensores y defensoras de derechos humanos, tales como sindicalistas, líderes indígenas, afrodescendientes, mujeres, LGBTI, entre otros. Adicionalmente ha seleccionado algunas investigaciones denominadas "casos de honor" para impulsarlas y obtener resultados en el menor tiempo posible.

Párrafos 81, 82, 83 y 84

Se sugiere revisar la noción de "modalidades de ataques" introducidas en estos párrafos, toda vez que carecen de soportes fácticos. En este sentido, los asesinatos de personas que ejercen una labor de defensa de derechos humanos motivados por la labor de defensa de los derechos humanos que desarrollaba la víctima solo puede establecerse mediante sentencia condenatoria, de no existir una sentencia, la motivación solamente

constituye una hipótesis de la investigación, así como un criterio de seguimiento y evaluación a la gestión de las Direcciones Seccionales.

Párrafo 85

Se considera delicada la afirmación generalizada sobre la persecución penal ilegítima contra defensores, sin los soportes fácticos debidos y que no miden el impacto negativo que pueden conllevar. Es importante advertir que de acuerdo con nuestro ordenamiento jurídico, el régimen penal colombiano es de acto y no de autor. En consecuencia, las personas son judicializadas por las conductas en que incurrieron y no por lo que son como personas, de donde se desprende que las personas que ostentan la calidad de defensores de derechos humanos y que han sido vinculados a investigaciones penales, han sido judicializados porque existen elementos materiales probatorios, evidencias físicas o información obtenida legalmente que los señalan como probables autores de conductas que revisten las características de delitos, más no por el hecho de ostentar la aludida calidad.

Adicionalmente, en virtud del artículo 250 de la Constitución Política de Colombia, la Fiscalía General de la Nación tiene la obligación de investigar la posible comisión de conductas constitutivas de delitos conforme al ordenamiento penal colombiano. En consecuencia, cuando se presentar denuncias, cualquiera sea su origen, corresponde a la Fiscalía investigar, independientemente de la calidad, oficio o actividad, tanto del denunciante como del denunciado. En este contexto, es apresuraúo concluir que existe algún tipo de criminalización de la actividad de defensoras y defensores de derechos humanos cuando se adelantan investigaciones con ocasión de denuncias ciudadanas.

Párrafo 91

Con el propósito de aplicar el rigor que el Informe exige, se solicita mencionar la evidencia que respalda la afirmación "Los funcionarios a cargo de la investigación mostraron actitudes discriminatorias".

Párrafo 93

El Informe se refiere a porcentajes de impunidad y falta de avances en los procesos judiciales pero las cifras que ofrece carecen de contexto y no se proporciona la fuente de las mismas.

Párrafo 94

Si bien se reconoce la gran problemática de las personas privadas de libertad, el Informe desconoce los avances en materia de formulación de una política integral penitenciaria materializada a través del CONPES núm. 3828 de "Política Penitenciaria y Carcelaria", publicado el 19 de mayo de 2015 y la promulgación de la Ley núm. 1760 del 6 de julio de 2015 que se refiere a la figura de la detención preventiva y su uso racional. Considerando la importancia de estos avances se solicita efectuar el registro de los mismos.

Párrafo 96

Al hacer referencia a los derechos de los pueblos indígenas y afrocolombianos, el Informe asegura que "su exclusión de la mesa de La Habana hasta la fecha, a pesar de que indígenas y afrodescendientes son de los grupos más afectados por el conflicto, sigue mostrando la falta de vigencia efectiva de sus derechos", lo cual constituye una apreciación que no se ajusta al contexto del proceso de conversaciones en La Habana. Es importante precisar que el conflicto armado que vive el país no tiene un componente étnico y por tanto, la participación de organizaciones de pueblos indígenas y afrocolombianos se ha dado a

través de mecanismos de participación como los Foros de Política de Desarrollo Agrario Integral y sobre Víctimas, entre otros mecanismos de participación de distintos sectores de la sociedad civil establecidos por la Mesa de Conversaciones.

E. Recomendaciones

Recomendación a)

Esta recomendación reiterando todas las recomendaciones realizadas en informes anteriores no aporta elementos específicos para su aplicación. La Oficina debe realizar un diagnóstico del estado de avance en la implementación de esas recomendaciones que permita insistir en aquellas que continúen siendo relevantes en el contexto actual del país y, en todo caso informar sobre aquellas que hayan sido superadas.

Recomendación b)

Como se mencionó en el Párrafo 96, la exhortación a las partes en La Habana "a dialogar con los pueblos indígenas y afrocolombianos" introduce una dimensión de conflicto étnico que no está presente en el caso colombiano, de manera que la participación de organizaciones de pueblos indígenas y afrocolombianos podría continuar dándose a través de mecanismos de participación como los Foros de Política de Desarrollo Agrario Integral y sobre Víctimas, entre otros mecanismos de participación de distintos sectores de la sociedad civil establecidos por la Mesa de Conversaciones.

Recomendación d)

Esta recomendación insta al Gobierno a realizar un ejercicio que ya se viene realizando y que, en todo caso depende del resultado de las negociaciones en La Habana y los acuerdos que allí se logren con respecto al Sistema Integral de Verdad, Justicia, Reparación y Garantías de No Repetición.

Recomendación e)

Esta recomendación desconoce los grandes esfuerzos y avances del Estado para adaptar su andamiaje institucional de cara al post-conflicto. Adicionalmente, se construye sobre la noción de "cultura institucional contrainsurgente" introducida en el Párrafo 37, que presume una institucionalidad que "estigmatiza y desprotege a los defensores de derechos humanos y líderes sociales, étnicos y políticos" y, profundiza en una visión que descalifica la capacidad de la institucionalidad del Estado para promover una cultura de respeto, protección y garantía de los derechos humanos.